

# 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

Tuesday, May 3, 1983

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

Prayer by the Reverend Robert E. Stuart of the Winter Street Baptist Church, Gardiner.

The journal of yesterday was read and approved.

**Papers from the Senate  
Reports of Committees  
Unanimous Leave to Withdraw**

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Create a Capital Improvement Fund for the Maine Veterans' Memorial Cemetery" (S. P. 337) (L. D. 982)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Concerning Uniform Crime Reports of Child Abuse, Incest and Gross Sexual Misconduct" (S. P. 202) (L. D. 624)

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

**Ought to Pass in New Draft**

Report of the Committee on Legal Affairs on Bill "An Act to Require Swimming Pools to be Enclosed" (S. P. 425) (L. D. 1287) reporting "Ought to Pass" in New Draft (S. P. 511) (L. D. 1528).

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence, the New Draft given its first reading and assigned for second reading Wednesday, May 4.

**Divided Report**

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Extend Maine's Returnable Deposit Law" (S. P. 183) (L. D. 609)

Report was signed by the following members:  
Senator:

CHARETTE of Androscoggin  
— of the Senate.

Representatives:

POULIOT of Lewiston  
CONARY of Oakland  
PERKINS of Brooksville  
RACINE of Biddeford  
MARTIN of Van Buren  
TELOW of Lewiston  
BRANNIGAN of Portland  
MacBRIDE of Presque Isle

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New (S. P. 512) (L. D. 1529) on same Bill.

Report was signed by the following members:  
Senators:

CLARK of Cumberland  
SEWALL of Lincoln

— of the Senate.

Representatives:

MURRAY of Bangor  
STEVENS of Bangor

— of the House.

Came from the Senate with the Minority "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 Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I move that we accept the Majority "Ought Not to Pass" Report in non-concurrence.

First, I would like to speak about the original bill that was presented to our committee for our consideration and speak about this new draft which is being presented here this morning.

The first piece of legislation that was presented to us—and I personally want to thank the sponsors and those who assisted them in the committee in looking at that piece of legislation—was a wide-ranging piece of legislation dealing with packaging. It began to pick up under what is called "the bottle bill" many other kinds of packaging in a system that was really to deal with the whole problem of solid waste management.

For those of you who have followed the bottle bill for many years, you know that the bottle bill grew out of concern, first of all, for litter, litter control, and secondly for recycling and re-managing of waste. We have mainly looked at that bill and looked at that process both in our committees, in this House and in the other body and in referenda among our people as a litter problem. This time, however, a wide range of packaging concerns were brought to us through the sponsors by the Natural Resources Council. It certainly was an education for the committee and was an education for me, and even though we felt very much so that it was premature, we did feel it was a problem. Those of you who live in small towns, and also those who live in larger towns and cities, know that solid waste is becoming a very, very expensive proposition. The issue of solid waste is a very important issue to be dealt with by all those concerned, those who manufacture and those who handle, and eventually, and unfortunately probably, those of us who are in the Legislature.

What I told some of the people after the hearing who had presented this to us, I said, I would think you would want to move this major problem of how things are to be disposed of to another committee; maybe you ought to move it to Energy and Natural Resources, those who deal with solid waste management, because what they were asking for was to begin to push for packaging to be done with things that were biodegradable, things that could be burned for energy. Some of you know that cities and towns are considering actually getting into converting waste into energy that can be reused. This gentleman said to me—no, I think you people have to look at it in the area of business legislation because someday—he knew where we were coming from—some day you are going to have to tell people how they must package. You are going to have to tell businesses what they are going to have to do in the area of packaging because it is going to be such a public policy issue that even though it may be more expensive to put it in certain kinds of paper or biodegradable products, you are going to have to come to that. To me, that was an education, I think it was for the committee, and something that we are going to be facing in the years to come, in the years to come but not today.

So, that bill in its original form was not considered for a great length of time for passage by our committee. What was considered is what is before you today, which is a very minor extension of the present bottle bill. What you are being asked to vote on is a picking up of some of—as you know, all of the bottle bill requirements deal with carbonated beverages. What you are asked to pick up today in this legislation is some of the so-called look-alikes, only those that are in 12 ounce cans, no jars, no plastics, just cans, just 12 ounces.

To clarify what my motion was, I think this ought not to pass, as does the majority of the committee. The reason for this is that the bottle bill as we have had it and as we have been working on it is working well. There are no other amendments to it this year. It seems to be working very well. For us to begin to tinker with it has to have good reason, and this small adjustment is not enough good reason for me.

I believe the danger is that it is going to be disruptive, especially to small stores, especially to small distributors. Right now, things are well in place in the distribution system, they are

well in place in the deposit system, the way your nickel or dime travels back through the distributor, so I think this bill, as it is presented to us today, would be a disruption to some of the small distributors, and especially our small stores. I would say at this point, let's leave a well-working bill, this well-working concept, the bottle bill as it is and go on to other things.

When the vote is taken, I would ask for a division, Mr. Speaker.

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

Mr. MURRAY: Mr. Speaker, Men and Women of the House: I rise today as one of the cosponsors of this bill and also a signer of the Minority Report. I would like to briefly discuss the present bottle bill and some of its successors.

As Representative Brannigan has stated, the bottle bill was passed to control a litter problem that we felt was significant, and by passing this law, the bottle bill has helped to reduce the volume of litter by a near 78 percent along our roadsides, a very successful bill, indeed.

The bill has also helped to enhance our solid waste management problems, which were also referred to by Representative Brannigan.

The success of the bottle bill has also been ratified overwhelmingly in a referendum held in 1979 where the voters of this state voted five to one to maintain the present bottle bill rather than repealing it, as some wanted to do.

The purpose of the original bill, as was stated, was to extend the law to include fruit and imitation fruit and vegetable drinks in any glass, can or plastic jar or bottle. This extension was sought basically for two reasons. One was to further the positive litter reductions that had occurred because of the original bill. One report that was stated at the hearing suggested that nearly 80 percent of our present roadside litter is made up of these non-returnable bottles.

A second reason why this original bill was sought was to enhance the solid waste management. Solid waste has become one of the third most expensive items for our municipalities in this state. By enhancing our bottle bill, we would have relieved some of the pressures on our landfills because our landfill's life expectancy directly depends on the volume that those landfills must handle. Secondly, the alternative of waste to steam through incineration is another reason why the extension of the bottle bill should be supported. By keeping out metals and glass from our waste stream, the incineration process can work much more smoothly.

The reason the bill has been amended deals primarily with the problem raised at the hearing, which was one of the distribution. These non-returnable bottles are distributed in a far different manner than our present carbonated containers. For this reason, the sponsor sought to limit the amended version to only 12-ounce metal cans, those look-alikes that for no reason are now non-returnable, and we would argue that they should be returnable. Thus, let me give you some of the reasons why I think you should support the minority version as amended.

Carbonation or non-carbonation should not be the sole factor in determining this state's litter and solid waste problems. There is no good reason why 12-ounce metal cans that contain a non-carbonated drink should not be treated the same as a carbonated drink. These look-alikes, as I already stated, still make up a significant proportion of our roadside litter problems. This measure would be another step in improving the state's fine record of environmental protection in both litter control and, as I have stated, solid waste management. By removing this item which could and should be recycled from our waste stream, we are thus relieving pressure on our municipalities' solid waste management efforts.

Finally, this bill, as amended to include only the 12-ounce metal cans, can be carried out

with a minimum amount of confusion and effort by our grocers and consumers. Thus, in conclusion I would urge you to reject the present motion to accept the Majority Report and concur with the Senate when they voted 22 to 3 to accept the Minority Report. And when the vote is taken, I would ask that it be taken by a roll call.

The SPEAKER: The Chair would advise the gentleman from Bangor, Mr. Murray, that he cannot use the actions of the other body to influence the actions of this body.

The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I think the present bottle bill has been working pretty well. I drive 170 miles over coastal roads, and since this bottle bill has been before us, I have looked very carefully to see if I could see any of them, and I am here to report to you that I do not, and I can't see any reason why we should extend the present version of the bill.

In my opinion, there is no need for this bill, it will just punish, for what reason I don't know, both the local store owner and the housewife who has to store these germ-collecting bottles. I just wonder if somebody might not want to call Human Services and find out if by keeping this type of bottle at home it might not be unhealthy.

You can also bet that if this bill were to pass, it would cost the consumer money. If enacted, we will probably be paying another 10 cents per bottle or can. Certainly the cost of handling will be added to the 5 cents which is charged, together with a margin of profit.

In addition, if this bill is enacted, it will preclude any small employer from developing his own bottled product, as he will find no market. The store owners will resist setting up additional storage space for a new product, thus leaving the entire market to the large bottlers such as Pepsi and Coca Cola. Let's just leave well enough alone, not increase costs and stop our small employers from competing in the market place.

The SPEAKER: The Chair recognizes the gentleman from Washington, Mrs. Allen.

Mrs. ALLEN: Mr. Speaker, Men and Women of the House: This morning I rise to urge you to defeat the Majority "Ought Not to Pass" Report and instead accept the Minority Report.

I would like to point out first of all that this bill, the new draft, deals only with look-alike cans. I firmly believe that when we had the referendum a couple of years ago and people reaffirmed their support by a two to one margin for our returnable container bill, that they very much intended for all cans, not just carbonated cans, to be included in returnable container legislation.

I believe, as Representative Brannigan pointed out, that the original bill perhaps went too far, but I believe this new draft is certainly reasonable, it is workable, and very much needed, and I urge you, again, to defeat the Majority "Ought Not to Pass" Report.

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

Mr. PARADIS: Mr. Speaker, Men and Women of the House: The bottle bill which we passed a few years ago instilled a great deal of discipline in our travelling public. All you have to do is walk along the sides of our roads after the snow has melted in the Spring and you recognize that, the amount of tonnage that has been reduced from the litter that has had to be picked up. This has recognized a great deal of savings to the Department of Transportation and to our municipalities. Right now you walk along the sides of the roads and you will find litter, and the majority of that litter is going to contain one of these items that is being discussed here today. It is one of these drink items for which there is no refund on that container. The group that is putting this material along the side of the road not only throws that con-

tainer out but also all the other wrappings, the entire package is placed out there on the side of the roads.

I believe that this is a good bill and I urge you to defeat the motion which is before us, the "ought not to pass" so we can accept the "ought to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Harrison, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning as an operator of a small general store in a small community. I would just like to pass on to you what I feel would be the impact of this piece of legislation if it were passed.

I am sure that everyone is aware in the discussions this morning with the bringing of the returnable container law the good that it has done, and I will agree that it has done a hundred percent of what it was designed to do, but I feel that to include these noncarbonated beverages such as tea, diet tea, lemonade, Hi-C, juices in 12 ounce cans, things of that nature, is unwarranted. Why I say this is, we are talking about fruit drinks that are wholesome for the consumers of this state, we are talking about things that have nutritional value for the people of this state.

I also want to talk about the cost factor, and that is the basic point that I have this morning. From the time that the returnable container bill was adopted in this state, the price of carbonated beverages, beer or ale, whatever the case may be, has risen somewhat in the vicinity of \$6.50 a case in this state as compared to other states in New England that compare now at \$8 and \$9 a case.

In the case of the non-carbonated beverages, we are talking in one state not too far from Augusta where a case of these beverages presently sells for somewhere in the vicinity of \$6. When you add on 30 cents for the deposit, 2 cents for the handling charge for the people handling these bottles, who take these bottles back, the additional cost that the distributor and the manufacturers are going to have, you are going to make these items prohibitive. They aren't items that sell tremendously in your store, I will speak for that. In fact, of iced tea, diet tea, lemonade, I might sell 20 cases of that in the course of a year. These are items that are in the juice section of your store; likewise with the Hi-C. I don't agree with the last speaker or the speaker previous to that when she said that it was intended that they be included under the deposit law—I don't think that was the intent of the legislation.

These items do not really contribute very heavily to the solid waste problem in this state. That is an item that we should discuss individually and not here with these non-carbonated beverages. That is a problem that is philosophical with many communities throughout this state, the direction that they want to take, how they want to handle their problems, but as far as contribution from these items, it is very small, ladies and gentlemen, and I just think that we should weigh the benefits of what we have today against what we would have if we adopted the minority report. I don't think it would be very conducive for this state.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: A couple of weeks ago when I was home, I was watching two kids walk along the side of the road, and from my home to the town of Sangerville it is about four miles. Each year we hear about many people saying there are no bottles or cans on the side of the road, which is true, but yet there are still some. I stopped to talk with these two young kids, and in their bag they had about three cans that were worth anything and the rest were just what Representative Paradis referred to. Three or four of those were the types of cans that you are discussing.

I would hope you would go along with this

bill because I actually believe, in talking with my nephew who services a redemption center, he says there is no problem whatsoever taking these along. They are all set up to do the same thing as they are now. As far as running the red herring across here about the increase in deposit, that is already in place with all the other cans. I see no reason why it would stop the sales of Coca Cola or Pepsi Cola or anything else. This will not be a deterrent on the sale of this, so I urge you to go along with the Minority "Ought to Pass".

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: We have heard about the disease in the store. I want to tell you about the disease on the farm—tetanus. It comes from a bale of hay with a cut up aluminum can in it when you try to open up the bale or when you are handling it or stacking it up in the haymound.

I am sorry to see the 'glass' taken off this bill because I know, I have just under a mile of road frontage and hayland and we are going to cut tires this summer and it is going to come from these bottles that will not be reclaimed. So I urge you to defeat the motion so we can put this bill through.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mrs. Stevens.

Mrs. STEVENS: Mr. Speaker and Members of the House: When the people of Maine made a public policy statement about returnable bottles, returnable cans, I don't think they meant to include the contents of the can as being relevant.

Differing with my seatmate, Mr. Jackson, the real juices, the real nutritional beverages are not covered in this bill. It includes only the imitation fruit drinks, the ice tea and the imitation lemonade. If you were to take the labels off those cans, you could not tell the difference between those and the carbonated beverages. It is inconsistent not to apply the same standard of recycling for both containers.

I agree with Mr. Brannigan, that the future demands that we address the solid waste problem; I think this is the way to start it.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I haven't any great words of wisdom to add here today, I think the discussion has been rather adequate. When you speak of a small adjustment, this is not going to be a small adjustment. When you speak of what is going to happen, the cost that is going to go onto these products, it is going to be a major adjustment. It is going to be a great problem for all the retailers, it is going to be a problem for the supermarkets, and, you know, this isn't a problem that we should dump onto business. This is a problem that the individuals shall handle.

In the little town of Harpswell, they have an incinerator plant and I spent a great deal of time there because that is where I did my running for office, at the incinerator plant in Harpswell. As the people came in, they bundled all their papers, they put all their bottles, different colored glass and different containers, the people who work there broke them and put them in different barrels and that is the way this problem should be handled. It shouldn't be handled by us, tying the cost of the product up in the stores.

Another point to remember is that it just doesn't make sense for us to put laws on that are going to cause people to conform to what is good manners. If the people in this state can't keep the streets and roads clean, there is a problem with them, not with the retailer who is selling the product.

I would advise you to go along with the committee and vote not to accept this bill.

The SPEAKER: The Chair recognizes the gentleman from St. George, Mr. Scarpino.

Mr. SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: Just to respond to a couple of points that Representative Dillenback has made—first, the arguments he made basically were the same arguments that were made against the original bottle bill, and that appears to be working out fairly well all the way down the line.

The second point that he made is that this wasn't a problem with the business, this should be the problem with the individual. Well, the simple fact of it is, the retailer, whether he is a small retailer or a large retailer, is integral in the distribution process of these products and these cans. It should be incumbent upon the business also to take the responsibility for some of the waste or the reclamation of these cans. Quite simply, the full responsibility shouldn't belong on the people. The people did purchase the product and use the product, but the business sold the product and distributed the product. Therefore, they have the same responsibility the individual has and should take part in the proper methods of disposing of these cans.

I would urge you to support the "ought to pass" minority report.

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 Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: All of my heart cries out for the poor merchant. I feel so sorry for you who sell the products that deface our highways. Oh, how I pray for you when I sleep at night, because you are selling the product that I pick up, six juice bottles in the field right in front of my house last Sunday.

Now, fruit juice bottles, when you run over them, they don't say "I don't cut tires." They do. Do you know what it costs for a tractor tire today? Just a few years ago it cost \$165; you buy a tractor tire today and it is \$450. You take a tire that has fluid in it and you go to a tire shop, you have the fluid put back in and your tire repaired, it used to cost \$30; it is now \$75. If you think that poor merchant that is selling that tea, the orange juice and those products is going to be penalized, just stop and think of that farmer out there and the machinery operators and the state equipment that is driving along the highways, trying to maintain the highways, that are running over these bottles. You just think about that, and if your heart aches with Representative Dillenback, I am sorry for you because I think he is coming from the wrong direction today.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Day.

Mr. DAY: Mr. Speaker, Ladies and Gentlemen of the House: The Representative from Limerick spoke about roadside litter and so forth; the Representative is going to use some of my property to grow corn and he is going to have to pick up the side of the road before he puts the plow up and down the field.

We have in our family farm nearly a mile and a half of road and we have picked up tons of bottles and cans. The bottle bill has been a good thing but there still are some and we still have to be careful when we drive the tractor near the side of the road, as do all the other farmers in Maine. Therefore, I urge this House to support the Minority Report.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mr. Brannigan, that the Majority "Ought Not to Pass" Report be accepted in non-concurrence. All those in favor

will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Anderson, Armstrong, Bell, Brannigan, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Chonko, Conary, Curtis, Dillenback, Drinkwater, Foster, Gwadosky, Hayden, Hickey, Ingraham, Jackson, Jacques, Joseph, Kelleher, Kiesman, MacBride, Macomber, Martin, H.C.; Masterman, Masterton, McGowan, Michaud, Norton, Perkins, Pines, Pouliot, Racine, Reeves, J.W.; Ridley, Rotondi, Salsbury, Sherburne, Smith, C.W.; Strout, Tammaro, Telow, Tuttle, Walker, Webster, Wentworth, Willey.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bonney, Bost, Bott, Brodeur, Carroll, D.P.; Carroll G.A.; Carter, Cashman, Clark, Connors, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Davis, Day, Dexter, Diamond, Dudley, Erwin, Gauvreau, Greenlaw, Hall, Handy, Higgins, L.M.; Hobbins, Holloway, Joyce, Kelly, Ketover, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lewis, Lisnik, Livesay, Locke, MacEachern, Manning, Martin, A.C.; Matthews, K.L.; Matthews, Z.E.; Maybury, McColister, McHenry, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Murray, Nadeau, Nelson, Paradis, E.J.; Parent, Paul, Perry, Randall, Reeves, P.; Richard, Roberts, Roderick, Rolde, Scarpino, Seavey, Smith, C.B.; Soucy, Soule, Sproul, Stevens, Stevenson, Stover, Theriault, Thompson, Vose, Weymouth, Zirnkilton, The Speaker.

ABSENT—Higgins, H.C.; Jalbert, Kane, Mahany, McPherson, Paradis, P.E.; Small, Swazey. Yes, 51; No, 90; Absent, 8; Vacant, 2.

The SPEAKER: Fifty one having voted in the affirmative and ninety having voted in the negative, with eight being absent and two vacant, the motion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted in concurrence, the New Draft read once and assigned for second reading later in today's session.

#### Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Remove Minimum Weekly Charge for Handicapped Workers under the Workers' Compensation Act" (S. P. 448) (L. D. 1369)

Report was signed by the following members:

##### Senators:

DUTREMBLE of York  
HAYES of Penobscot

— of the Senate.

##### Representatives:

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

— of the House.

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

Report was signed by the following members:

##### Senator:

SEWALL of Lincoln

— of the Senate.

##### Representatives:

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

— of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted. In the House: Reports were read.

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

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

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

Mr. ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I really don't understand why on this bill there is a Majority "Ought Not to Pass" Report, and I would like to give you a little bit of background as to what this L.D. does.

Currently, sheltered workshops, which many of you have probably heard of, they work with the severely mentally retarded and those that are not so severely mentally retarded. They give them the opportunity to learn how to count currency, to learn what it is like to feel as if they belong in society, to feel as though they are making some kind of a contribution to this state and to themselves, a feeling of importance, which is something I think we all desire.

The sheltered workshop is not in business to make money; they are in business to provide this service to those people that otherwise would not be able to get jobs anywhere.

What happens is, under the workers' compensation system, there is a \$25 minimum charge basically, a minimum benefit, and what this means is that a sheltered workshop, if they are paying someone a dollar or two dollars a week to work, the amount that they make is not important; the point is, they are working. So if we assume for a moment that someone is getting a couple of dollars a week to work and the actual payroll—I am citing an actual situation here—a payroll of a particular workshop is \$18,000 a year, but they must pay workers' comp based on an \$80,000 annual payroll because of the minimum \$25 charge. So here what we are doing is making it (1) extremely difficult for the sheltered workshop to survive, because they must survive on the products that they make and are able to sell and on contributions that they are able to get from people in the community and fundraising drives and things of this nature. You are making it hard for them to continue and all they are trying to do is help people that need help, so I would ask you to reject the motion to accept the "Ought Not to Pass" Report. It is a good bill, these people need help and let's help them.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to argue too much with what has been said by Representative Zirnkilton, because certainly sheltered workshops are very much needed, very much appreciated and certainly have a place in the scope of services to handicapped workers. As for the figures he has cited, that was one figure that was given at the hearing by one individual, but we have not been able to secure what the figures might be in the other sheltered workshop situation.

We contend that this is an insurance rating issue as opposed to a minimum benefit issue under the workers' comp act, and we contend that the problem that is being experienced by sheltered workshops is one that the superintendent of insurance should address and he should address the issue on behalf of the sheltered workshops with the insurance companies, not because of the law.

We contend that setting aside a different approach re our handicapped population is indeed precedent setting at this point in time.

I repeat, we are not able to determine from the two proponents who spoke to this bill just how many people would be impacted upon. For example, Good Will Industries of Maine and the Maine School for the Blind and some of our group home setups could be included under this bill, because all of them in some way, shape or form, come under the Bureau of Human Services description, the same kind of description that the sheltered workshop comes under.

We also were left with the question as to whether or not all sheltered workshops are, indeed, carrying workers' comp coverage. The question also begs itself on the basis that workers' comp is also covering employees other than participants; therefore, we are not

sure if two standards should have to be set up concerning sheltered workshops. I am sure there is a far different rate setting procedure or a different rate set for the employees who work in the sheltered workshops making \$10,000 a year, paid for with tax dollars, by the way, versus the handicapped participant who is earning 50 cents or a dollar a week. It is very interesting to see how they would begin to compute two-thirds of the average weekly wage with those kinds of wages being paid.

Furthermore, an injured handicapped worker is just as hurt and just as deserving of minimum coverage as you or I would be. Both chairs of the committee have committed themselves to draft a letter of deep concern over this issue to the Bureau of Insurance, and on that basis I ask you to kill this bill and trust that the real issue, that of rate computation, will do the job and address the problems being faced by the sheltered workshop setup in our state.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Willey.

Mr. WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: Unfortunately in our state, we do have a small percentage of the population who are termed retarded. These sheltered workshops were set up to try very hard to do something for these people to teach them to be productive to teach them the bare essentials, and there are, as I understand it, about 2,000 of the retarded in the State of Maine who are involved in these sheltered workshops.

As far as passing this on to somebody else to resolve, it doesn't make much sense to me to do that for the very simple reason that the same committee, in its infinite wisdom, set a minimum benefit of \$25. Normally, that would be fine. It is hard to figure out anybody who earns less than like \$50 a week that would get a \$25 benefit for being injured. Nevertheless, there are these sheltered workshops which I feel were not considered at the time that minimum was set.

As Mr. Zirnkilton mentioned, he gave us the instance of an \$18,000 payroll but paying workmen's comp at the rate of something like \$80,000.

You have to remember that these sheltered workshops are nonprofit; all the way they are nonprofit. They exist on donations, grants and this sort of thing. They are getting these young people in, these retarded in, to do various things such as make candles and they do it very slowly, they are not able to earn very much, so the money that comes in from the contractor, and these are all contract jobs, they are try-to-break-even things and I know how this works because I was on the board of directors for the Eastern Maine Friends of Retarded Children for a number of years and part of our efforts were going out and getting people to try to give us things to do, for these people to do, so they could have the experience and earn a dollar or two by way of incentive. These pay very little and it is based pretty much on what the raw materials are going to cost you to do it and any benefits left over thereby go in direct pay to these retarded people. One of the costs they have to bear is that they have to pay such great workmen's costs which are related to what they do and occasionally—of course people are protected very well, the best that is possible, but occasionally one of them will hurt themselves. Even though that youngster, a retarded was earning two or three dollars a week at what he was doing, very happy with it, when he gets workmen's comp he is earning \$25 a week and is subject to all the other provisions of workmen's compensation claims.

It seems to me that probably the whole sheltered workshop thing should be excluded from workmen's comp. At the very best, we should not ask these people to pay an 80 percent premium on wages simply for these instances. I

think the bill is a very good bill and I hope that you will vote against sending out this way, vote against the motion on the floor and that you will support the bill.

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

Mr. ZIRNKILTON: Mr. Speaker and Members of the House: If I could just address a couple of things.

L.D. 1369 has nothing to do with whether or not all sheltered workshops in the State of Maine are carrying workers' compensation insurance. I will tell you right now, if they aren't it is because they can't afford the very problem that we are trying to address now.

You have the opportunity today to do something about it, not to send it to the insurance people, not to send it to somebody else who is going to examine it, you have got the opportunity to take care of it right here and now.

It is unfair for someone to have to pay ridiculous rates that don't even resemble in any way what the actual payroll is. Yes, if they are hurt, they are entitled to compensation, but why should they be entitled to four or five hundred percent or more of what they were earning? We don't get that if we are hurt, and they shouldn't either. Let's take care of it right now.

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

Mr. DIAMOND: Mr. Speaker and Members of the House: I am quite concerned about this bill and concerned that this body may make the grave mistake of passing this piece of legislation. For that reason, I rise to oppose it.

The purpose of the provision that is being addressed in this law is to guarantee that injured workers, regardless of what type of employment they are involved in, are guaranteed a certain minimum protection, financial protection, in order to maintain a normal lifestyle, hopefully a normal lifestyle, in case they are injured on the job. Regardless of whether or not you are a school teacher, a politician, laborer, secretary, what have you, or handicapped, you should have some basic form of protection.

The law currently says that \$25 is the minimum weekly payment that can be paid to somebody that is injured on the job—\$25. I think it is ridiculous to argue that we should take away that protection for the people that are making or whose salaries are so low that that minimum applies or increases the salary when, again, the law is in place to guarantee that certain people are afforded that minimum.

It is very discriminatory, this piece of legislation. I can't believe that the only exception to that minimum that we have in place right now would deal with the handicapped, and I think for that reason we would be making a tremendous mistake. If you want to address the problem of people getting more through the minimum payment that they actually earn in a week, that does involve more than handicapped people, people in sheltered workshops, it does involve part-time employees in every aspect of work, then I think you should introduce a piece of legislation that would remove that minimum completely, not address it for one very small and very vulnerable area of society, the handicapped.

For that reason, I would ask you to support the Majority Report of the committee and support the motion of "ought not to pass".

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Willey.

Mr. WILLEY: Mr. Speaker and Members of the House: Just one thing. In the first place, we are not talking about handicapped, we are talking about retarded. In the second place, it is true, there are very few people who don't earn enough money to get \$25 a week. In normal circumstances, that is a reasonable thing. However, you have to realize that the retarded are not self-sufficient, they are not supporting themselves on the minimum salary. It is a learning process for them, that is the only thing that it is, something to keep them occu-

pied and to try to enhance their education as much as you possibly can.

This two or three of four dollars a week, whatever it is that they may pick up with these things has nothing whatever to do with their lifestyle. Their lifestyle is very sheltered and somebody else, of course, is taking care of them. It has nothing whatever to do with the style in which they live. This is simply a deterrent. If you remove this bill, if you shoot it down, it is a deterrent for the creation of more of these sheltered workshops which I feel very strongly are very beneficial.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: The issue here is not the value of the sheltered workshops; it is an issue of insurance rating and insurance compensation procedures, period.

I would like to respond by simply saying that being mentally retarded is one heck of a handicap.

I raised the issue of whether or not we may have some operations in the state that are not carrying workers' comp and, indeed, if they are not carrying workers' comp coverage, they are operating against the law and should be closed down. I think we need to do a lot more work and that is why it is indeed appropriate to send this issue to the Bureau of Insurance and let the superintendent of insurance deal with the issue.

We advocate the Majority "Ought Not to Pass" Report and, Mr. Speaker, I ask for the yeas and nays.

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 Chair recognizes the gentleman from Portland, Mr. Andrews.

Mr. ANDREWS: Mr. Speaker and Members of the House: I would just like to make a few brief comments about the debate that we have heard this morning on this bill and also on the merits of the bill itself.

First of all, a blanket statement that mentally retarded people are not self-sufficient I take exception to. There are many mentally retarded people who are totally self-sufficient as a result of practices of non-discrimination that we have begun to institute over the past few years.

Another point that I think should be emphasized is that work place hazards and injuries do not discriminate on the basis of handicapped. If you are injured in the work place and you are mentally retarded or otherwise handicapped, you are just as hurt as anybody else. If the workers' compensation system is going to work and work fairly, those people should have the same basic types of benefits as non-disabled workers.

Certainly, we have a problem with very low wages of mentally retarded people and other handicapped people at sheltered workshops, and for years sheltered workshops have served as weigh stations for handicapped people, warehouses for handicapped people, where decent training opportunities were not provided and slowly that is beginning to change and handicapped people are beginning to receive competitive wages. But the fact of the matter is, there are those that are receiving substantially low wages for work that they are doing and if they become disabled, they are going to be incurring tremendously high costs and their families are going to be incurring tremendously high costs.

In the work session and in the hearing there was a great myth that was perpetrated, and it might still be in some people's minds here this



morning, and that is that there is a great social safety net for handicapped people should they become disabled. After all, handicapped people can receive Medicaid benefits and are eligible for other programs. Well, this simply is not true. In order for a disabled person to receive Medicaid, they must also receive Supplement Security Income, and if you have been reading the papers or even hearing from some of your constituents around the state, hundreds of disabled people have been thrown off that program in the past two years. So, in fact, there are many disabled people who are receiving very little wages who could be hurt and have no program to fall back on other than workers' compensation.

I believe that this bill is totally unfair. Finally, I believe it is also sloppily worded, it would need changes even to meet the intent of the authors in talking to some people at the Bureau of Rehabilitation.

For those reasons, I urge this body to strongly support the Majority "Ought Not to Pass" Report.

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

#### ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carrier, Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Erwin, Foster, Gauvreau, Gwadosky, Handy, Hayden, Hickey, Hobbins, Jacques, Joseph, Joyce, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Norton, Perry, Pouliot, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Rotondi, Smith, C.B.; Soucy, Soule, Stevens, Swazey, Tammara, Theriault, Thompson, Tuttle, Vose, Wentworth, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Conary, Conners, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Kelly, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, Moholland, Murphy, Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.W.; Sproul, Stevenson, Stover, Strout, Telow, Walker, Webster, Weymouth, Willey, Zirkilton.

ABSENT—Carter, Hall, Higgins, H.C.; Jackson, Jalbert, Kane, Kelleher, Mahany, McPherson, Paradis, P.E.; Paul, Small.

Yes, 80; No, 57; Absent, 12; Vacant, 2.

The SPEAKER: Eighty having voted in the affirmative and fifty-seven in the negative, with twelve being absent and two vacant, the motion does prevail.

#### Non-Concurrent Matter Tabled and Assigned

Bill "An Act to Override the Federal Preemption of State Authority to Regulate Alternative Mortgage Transactions" (Emergency) (H. P. 790) (L. D. 1082) which was Passed to be Engrossed in the House on April 27, 1983.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S-77) in non-concurrence.

In the House: On motion of Mr. Brannigan of Portland, tabled pending further consideration and tomorrow assigned.

#### Non-Concurrent Matter

Bill "An Act to Clarify Certain Provisions of the Marine Resources Laws" (Emergency) (H.

P. 987) (L. D. 1292) which was Passed to be Engrossed as amended by Committee Amendment "A" (H-157) in the House on April 25, 1983.

Came from the Senate Passed to be Engrossed as amended by Committee Amendment "A" (H-157) as amended by Senate Amendment "A" (S-79) thereto in non-concurrence.

In the House: On motion of Mr. Crowley of Stockton Springs, the House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act Relating to Clam Regulation in the Unorganized Territories" (H. P. 908) (L. D. 1187) which was Passed to be Engrossed in the House on April 26, 1983.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S-80) in non-concurrence.

In the House: On motion of Mr. Crowley of Stockton Springs, the House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act to Establish a State Board of Prison Terms and Supervised Release" (H. P. 1033) (L. D. 1358) on which the "Be Referred to the Committee on Judiciary" Report of the Committee on Health and Institutional Services was read and accepted and the Bill referred to the Committee on Judiciary in the House on April 27, 1983.

Came from the Senate with the Bill and Accompanying Papers Recommended to the Committee on Health and Institutional Services in non-concurrence.

In the House: On motion of Mrs. Nelson of Portland, the House voted to recede and concur.

#### Non-Concurrent Matter

An Act to Give the Maine Association of Retirees Proper Representation on the Board of Trustees for the Maine State Retirement System. (S. P. 481) (L. D. 1447) which was Passed to be Enacted in the House on April 29, 1983.

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

In the House: On motion of Mr. Hickey of Augusta, the House voted to adhere.

#### Messages and Documents

The following Communication: (S. P. 516)

#### 111th Maine Legislature

April 29, 1983

Honorable Judy C. Kany  
Honorable Donald M. Hall  
Chairs

Joint Standing Committee on  
Energy and Natural Resources  
State House  
Augusta, Maine 04333

Dear Chairs Kany and Hall:

Please be advised that Governor Joseph E. Brennan today nominated Peter J. Wiley of Falmouth for appointment to the Board of Environmental Protection.

Pursuant to Title 38 MRSA Section 341, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources 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 Energy and Natural Resources.

In the House, was read and referred to the Committee on Energy and Natural Resources in concurrence.

#### Petitions, Bills and Resolves Requiring Reference

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

#### Judiciary

Bill "An Act to Authorize Court Appointed Receivers" (H. P. 1165) (Presented by Representative Kelleher of Bangor) (Cosponsors: Representative Richard of Madison and Senator Brown of Washington) (Submitted by the Department of Human Services pursuant to Joint Rule 24)

(Ordered Printed)

Sent up for concurrence.

#### Tabled and Assigned

Bill "An Act to Impose a Severance Tax on Wood" (H. P. 1166) (Presented by Representative Andrews of Portland)

Committee on Taxation was suggested.

On motion of Mr. Hall of Sangerville, tabled pending reference and tomorrow assigned.

#### Later Today Assigned

Bill "An Act Relating to Hazardous Material" (H. P. 1167) (Presented by Representative McHenry of Madawaska) (Cosponsors: Senator Kany of Kennebec, Representatives Michael of Auburn and Mitchell of Freeport)

Committee on Transportation was suggested.

On motion of Mr. Carroll of Limerick, tabled pending reference and later today assigned.

#### Orders

On motion of Representative Webster of Farmington, the following Joint Resolution: (H. P. 1164) (Cosponsor: Representative Dexter of Kingfield) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 35)

JOINT RESOLUTION MEMORIALIZING THE MAINE CONGRESSIONAL DELEGATION AND APPROPRIATE OFFICIALS OF THE IMMIGRATION AND NATURALIZATION AND CUSTOM SERVICES OF THE UNITED STATES TO OPPOSE THE PROPOSED PLAN TO CLOSE THE BORDER STATION AT COBURN GORE, FRANKLIN COUNTY, MAINE

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the First Regular Session of the One Hundred and Eleventh Legislature, now assembled, most respectfully present and petition the Members of the United States Congress from Maine and appropriate officials of the Immigration and Naturalization and Custom Services of the United States as follows:

WHEREAS, Coburn Gore, in the far northwest corner of Franklin County, is now the only port of entry between New Hampshire and Jackman, Maine; and

WHEREAS, this station manned by 2 customs officers is one of 34 ports in 9 northern border states that has been named for closure or curtailment by the Federal Government; and

WHEREAS, the closing of Coburn Gore station would stop all entry into the country at that point and traffic would be stopped at the border where Quebec Highway 161 becomes Maine Route 27; and

WHEREAS, Coburn Gore is the only entry point for Canadians traveling to the year-round Sugarloaf recreational area; and

WHEREAS, this closure would place an economic hardship on both Maine and Canadian citizens and play havoc with commerce in the western Maine area; and

WHEREAS, a detour of more than 40 miles to another border crossing at Jackman is an undue burden for both commercial and pleasure traffic in this area; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request the Honorable Ronald W. Reagan, President of the United States, Members of the Congress of the United

States and appropriate officials of Immigration and Naturalization and Custom Services of the United States to reverse any plans to close the border station at Coburn Gore in Franklin County, Maine and to consider the great hardship on people of this area that will result should that station be closed; and be it further;

**RESOLVED:** That copies of this Memorial, duly authenticated by the Secretary of State be transmitted forthwith to the Members of the Maine Congressional Delegation and the appropriate heads of Immigration and Naturalization and Custom Services of the United States.

Was Read and Adopted and sent up for concurrence.

#### House Reports of Committees Unanimous Leave to Withdraw

Representative Higgins from the Committee on Taxation on Bill "An Act to Reduce Driver's License and Registration Fees and to Increase the Tax on Motor Vehicles" (H. P. 355) (L. D. 413) reporting "Leave to Withdraw".

Representative Soule from the Committee on Judiciary on Bill "An Act Relating to Abortions in the Third Trimester" (H. P. 171) (L. D. 201) reporting "Leave to Withdraw".

Representative Foster from the Committee on Judiciary on Bill "An Act Relating to Abortion by Saline Injection" (H. P. 108) (L. D. 115) reporting "Leave to Withdraw".

Representative Racine from the Committee on Business Legislation on Bill "An Act to Provide Access to Insurance Rate Filings before a Rate Filing Becomes Effective" (H. P. 1077) (L. D. 1431) reporting "Leave to Withdraw".

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

#### Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-177) on Bill "An Act to Create a Student Seat on the Board of Trustees of the University of Maine" (H. P. 24) (L. D. 29)

Report was signed by the following members:  
Senators:

CLARK of Cumberland

HAYES of Penobscot

— of the Senate.

Representatives:

BROWN of Gorham

CROUSE of Washburn

RANDALL of East Machias

BOTT of Orono

LOCKE of Sebec

MATTHEWS of Caribou

THOMPSON of South 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:

HICHENS of York

— of the Senate.

Representatives:

MURPHY of Kennebunk

SOUCY of Kittery

SMALL of Bath

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Sebec, Mrs. Locke.

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

The SPEAKER: The gentleman from Sebec, Mrs. Locke, moves that the House accept the Majority "Ought to Pass" Report.

The gentleman may proceed.

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: This bill would provide for a student member on the Board of Trustees of the University of Maine with full voting rights. The student member would be appointed by the

Governor for a term of two years. The Governor would make the selection from a list of five students submitted to him or her by the University of Maine Organization of Student Government and would not be chosen from the same campus in any two consecutive terms.

Students eligible for consideration would be enrolled full-time in the University of Maine system and be a permanent resident of the state.

After considerable consideration, the majority of the Committee on Education felt that since there are consumer members on almost all, if not all, state boards and commissions, that a student would add much insight to the deliberations of the University of Maine Board of Trustees. It would only seem right that this bill be given a vote of "Ought to Pass" by this Legislature.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. Murphy.

Mr. MURPHY: Mr. Speaker, Men and Women of the House: This bill is an old chestnut that returns back to this chamber every two years.

The Board of Trustees is the governing board of the University of Maine system. They represent all the citizens of the State of Maine. Presently, interested citizens submit their names to the Governor's Office for posted vacancies. A student may submit his or her name for consideration and possible appointment. The names and backgrounds are thoroughly reviewed and only then does the Governor post his or her nomination for public hearing and confirmation. Whatever happened to appointing the best person? Let any interested person submit his or her name and compete for the vacancies. Students can and should submit their names.

This bill is a beginning of a quota system for that board. If you vote for this bill today, then we had better draft legislation to define by quota each seat on that board by age, sex, occupation or geographic area. If you vote for this bill today, then you should be consistent and return back to your local community and begin working to create a student seat on your local school board, appoint high school students, maybe even then the demand would be for junior high students or elementary students to serve on that local board, but please be consistent.

The major weaknesses within this bill are, first of all, the student trustee is only appointed for two years as opposed to the other trustees whose term is seven years. Past and present trustees have told us that it takes at least two years to become familiar with the complex duties of that position.

The student trustee will represent only one of the university campuses; the other campuses will be unrepresented. The meeting schedule is weekdays and it takes place rotating at the various campuses. Good attendance on the part of the student trustee could possibly create a conflict with that student's academic schedule.

To summarize, the Governor, according to this bill, would have to appoint from a list of five students. If none of the five are acceptable to the Governor, the Governor would still have to appoint from out of those five names that have been submitted. The other 14 trustees are posted by the Governor, reviewed in public hearing by the Legislature's Education Committee and then confirmed by the Legislature; it is open to public light.

This whole process that is contained within this proposed L. D. is completely contrary to Maine's sunshine law. It restricts the appointive power to the Governor and it removes the review and confirmation of the Legislature. It is an absolutely foolish bill and I would urge you to defeat the "ought to pass" motion.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Day.

Mr. DAY: Mr. Speaker, Ladies and Gentlemen of the House: For five years I was a member of

the Maine Advisory Council on Vocational Education. Federal law specifies who shall serve on that council and the council had a student member during those five years. The attendance record by students was absolutely terrible and they rotated, of course, because the VTI's were only two-year schools and in some cases some students were appointed who were were at the VTI for one year. When they left school, of course they went off the board.

When one goes on a board, as Representative Murphy has said, it takes a little while to learn the ropes; therefore, on the basis of the experience that I have seen on a board for our VTI's which encompassed the whole state from Presque Isle to South Portland, and geographical location was another reason why the students couldn't attend—to come from the VTI at Machias, I believe, wherever it is, that student had a terrible time getting there to go to a meeting in Presque Isle or Bangor or South Portland.

I would urge that you not vote for this proposal to have a student on the board of trustees.

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

Mr. HANDY: Mr. Speaker, Men and Women of the House: There are those here that say that a student member may need time to get acquainted with the way that the board of trustees operates. I submit to you that the logic that would go into the selection of those appointees would be first the selection of five candidates, five qualified candidates by the University of Maine Organization of Student Government, and then by the Governor. In both of these steps, the students would be looked at and evaluated as to what they can contribute.

Having been a product of the University of Southern Maine and proud of it, knowing that there are many students appointed to a variety of committees within the university system, I served on probably two of the busiest committees at the University of Southern Maine, the President's Advisory Committee on the Budget, as well as the Disciplinary Committee. I did a four-year degree program in two years, so I would submit to you that that also makes me carry an even heavier load than the average student, and I fulfilled all those duties with all the verve and vigor of any of the individuals that currently serve on the Board of Trustees and would submit that a student serving on the Board of Trustees could provide valuable incite. Keep in mind that students participate in university activities on a daily basis and they are more able to recognize those situations and those problems that do cut across all campuses and would be best able to relate those to the members of the Board of Trustees as full voting members.

I think it is kind of strange to equate local school boards with the University Board of Trustees; however, I would suggest that there is at least one community in the state that has student directors on their high school board of directors, student representatives on the board of directors of their high school.

The caliber of students that we have at our universities for the most part are of high quality and I believe that they deserve representation on the Board of Trustees so our university system may meet the high standards that they set for themselves.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Bost.

Mr. BOST: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to speak in favor of L. D. 29, "An Act to Create a Student Seat on the University of Maine Board of Trustees." This by no means is a unique or uncommon idea. The precedent has already been set in colleges and universities across the nation. A precedent has also been set in Maine with Governor Curtis' appointment of a student to the board in his first term. The student was



Stephen Hughes, who later became a member of this Legislature.

This position would provide direct input to the Board of Trustees which finds itself often removed from the actual educational process and I believe would offer a most valuable perspective, that of the consumers of education.

Through input from a student member, the distance the board may have from the real teaching and learning experience would be significantly narrowed. There is also a provision in the bill to require a frequent turnover of this position so that a student does not grow old on the job.

Initially, the Board of Trustees were resistant to the idea, but after living with the concept for awhile, they are now most receptive.

I think it makes good sense to provide for student participation on the board which determines educational policy and direction. We will all be the beneficiaries from this additional perspective. This does not imply that the door be opened to every interested party in the state as Representative Murphy has implied. This opens the door for participation by those who are directly affected by the board's decisions.

I urge that you accept the Majority "Ought to Pass" Report.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: My husband served on the Board of Trustees a few years ago, and for those few years of his service, the university was very much a part of our everyday life. At that time, there were several trustee committees on which students served that have been mentioned. He was extremely impressed with the input of those students into the policymaking that takes place at the committee level. Serving in the Legislature here, we know that that is where the policymaking really begins, in the committees.

At the time my husband served on the board, having a student on the board was an issue and it has been an issue ever since I have served in the Legislature. This bill is what I would call an old chestnut and I urge you to defeat it today.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, I would like to pose a question through the Chair, if I may, please? Can the President of the Student Senate be a resident of Massachusetts? If so, then could the President of the Student Senate, according to this bill, not be allowed to serve on the Board of Trustees?

The SPEAKER: The gentleman from Eastport, Mr. Vose, has posed a question through the Chair to any member who may respond if they so desire.

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

Mr. HANDY: Mr. Speaker, Members of the House: First of all, I would say that the student member on the Board of Trustees that would be selected would have to be a resident of the State of Maine, and that is one of the strongest points that I wanted in this bill.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. Murphy.

Mr. MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question posed by Mr. Vose and having followed very closely the numerous debates that have occurred on this floor with various election law proposals, I think we are aware of the fact that all one has to do on election day or at the time you register is just declare that you are a citizen of the state.

The SPEAKER: The Chair recognizes the gentleman from Washburn, Mr. Crouse.

Mr. CROUSE: Mr. Speaker, Men and Women of the House: I strongly support L. D. 29. A consumer of education would provide the perspective necessary on a board responsible for

the policy that that student lives by. A representative board is essential to define the educational needs of our Maine students. A student on the board, for instance, would have accelerated the implementation of a uniform transfer of credits policy within the University of Maine system. The transfer policy was delayed by at least four years because of the lack of input by the University of Maine students that was being heard by the unfair transfer of credit policy.

What has happened in the seven campuses in the University of Maine system, a lot of the students that transferred from the branch campus to the University of Maine at Orono lost credits when they transferred, a very serious issue for those students transferring to the University of Maine at Orono. They were paying for those credits and once they transferred, they lost those credits because of the feeling of Orono that they were the best institution, they offered the best faculty, they offered the faculty with the most degrees and that type of background, so we had a real problem with the transfer of credits within the University of Maine system. Only as a result of the Legislature this session passing An Act to Make Uniform the Transfer of Credits did this go through.

Without the student perspective on the Board of Trustees and a voting student on the Board of Trustees, this policy was delayed and moved very slowly on by the board because of the lack of input, the lack of voting rights by this particular student on the Board of Trustees. That is a very serious concern of mine. A lot of the trustees have been removed from the system for such a period of time they don't really get a feel for what is going on in the present day environment on campus. So it is essential that a student be on the Board of Trustees, present their feelings about athletic policies, present their ideas about other policies that are decided by the Board of Trustees such as the student conduct code, so it is very important that a student be on the board.

I urge you to support the Majority "Ought to Pass" Report in this particular bill.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Soucy.

Mr. SOUCY: Mr. Speaker, Ladies and Gentlemen of the House: I rise as a Representative who signed the "Ought Not to Pass" Report. Proponents today make it sound like the students have no voice whatsoever in helping to determine policies for advising and that is not true. It is my understanding that there is at least one representative from every campus whose expenses are paid to the meetings dealing with trustees and their agendas.

I submit that they do have an opportunity to have input. I guess to put it very bluntly—I like to have students who are students and not trustees.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Bott.

Mr. BOTT: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in support of L. D. 29. As some of you may recall last session, I headed a delegation of students who lobbied for this bill. The bill failed in the other body but I think it should pass this time.

There are many arguments that can be used in support of this bill; however, I feel that the most important one we should look at is that of perspective. A student on the Board of Trustees would enhance that advisability to make informed decisions by providing a consumer perspective. It is my belief that no matter how many campus events and forums a trustee attends and however well intentioned he or she may be, his or her outlook is still, to a large extent, shaped by his or her background and experience since graduated from college. The resulting outlook could be considerably different from that of consumers. I strongly urge passage of this bill.

The SPEAKER: The Chair recognizes the

gentleman from Lewiston, Mr. Handy.

Mr. HANDY: Mr. Speaker, Ladies and Gentlemen of the House: My seatmate, Representative Soucy, is absolutely right and we are not trying to gloss over the fact that there are seven students who sit on the standing committees.

I would like to quote from 201.5—the Board of Trustees' Policy on Committees' Standings—"Appointment of student representatives—the Board of Trustees recognizes that it has a function of fostering democratic ideals in the students of the University of Maine. Membership on committees of the Board of Trustees helps to build a sense of community and understanding among various segments of the university population."

Ladies and gentlemen of the House, I feel that we can further strengthen that involvement of the student in the say of the activities of the university by giving them full voting rights.

Mr. Speaker, when the vote is taken, I request it be taken by the yeas and nays.

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 in favor of a roll call 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 Sebec, Mrs. Locke, that the House accept the Majority "Ought to Pass" Report.

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

Mr. MANNING: Mr. Speaker, I request permission to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If Mr. Jalbert were present and voting, he would be voting yes; I would be voting no.

The SPEAKER: The pending question is on the motion of the gentlewoman from Sebec, Mrs. Locke, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Cashman, Chonko, Clark, Connolly, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hickey, Higgins, L.M.; Hobbins, Ingraham, Jacques, Joseph, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacBride, Martin, H.C.; Matthews, K.L.; McGowan, McHenry, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paul, Randall, Reeves, P.; Richard, Rolde, Rotondi, Smith, C.B.; Stevens, Stevenson, Theriault, Thompson, Tuttle, Weymouth, Zirknkilton, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, G.A.; Carter, Conary, Conners, Cooper, Cote, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Hayden, Holloway, Jackson, Joyce, Kiesman, Lebowitz, Lehoux, Lewis, Livesay, MacEachern, Macomber, Martin, A.C.; Masterman, Masterton, Maybury, McCollister, McPherson, McSweeney, Melendy, Moholland, Murphy, Nelson, Norton, Paradis, P.E.; Parent, Perkins, Perry, Pines, Pouliot, Racine, Reeves, J.W.; Ridley, Roberts, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.W.; Soucy, Soule, Sproul, Stover, Strout, Swazey, Tammaro, Telow, Vose, Walker, Webster, Wentworth, Willey.

ABSENT—Higgins, H.C.; Kane, Kelleher, Mahany, Matthews, Z.E.; Paradis, P.E.; Small.

PAIRED—Jalbert, Manning.

Yes, 64; No, 76; Absent, 7; Paired, 2; Vacant, 2.

The SPEAKER: Sixty-four having voted in the affirmative and seventy-six in the negative, with seven absent, two paired and two vacant,

the motion does not prevail.

Thereupon, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Improve Access to Small Claims Court" (H. P. 480) (L. D. 577)

Report was signed by the following members:  
Senators:

VIOLETTE of Aroostook  
TRAFON of Androscoggin  
COLLINS of Knox

— of the Senate.

Representatives:

DRINKWATER of Belfast  
FOSTER of Ellsworth  
LIVESAY of Brunswick  
SOULE of Westport  
REEVES of Newport  
JOYCE of Portland

— of the House.

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

Report was signed by the following members:  
Representatives:

BENOIT of South Portland  
CARRIER of Westbrook  
HAYDEN of Durham  
HOBBS of Saco

— of the House.

Reports were read.

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

Mr. HOBBS: Mr. Speaker, I move that the House accept the Minority "Ought to Pass" Report.

The SPEAKER: The gentleman from Saco, Mr. Hobbs, moved that the House accept the Minority "Ought to Pass" Report.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I almost missed this bill. In my committee, the prestigious Judiciary Committee, this bill really never had an L. D. number. It was always referred to as the "Speaker's Bill."

Mr. Speaker, I wouldn't be out of order referring to this bill as the Speaker's Bill—that would be all right?

The SPEAKER: As long as the gentleman votes for the bill, the Chair has no problem.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: Between the daylight and the darkness, there is a time known as the "Children's Hour," and from reading this bill, one would quickly grasp at this as a bill that was no doubt put together during that hour.

Yes, all this bill does, plain and simple, it opens the courts during night time. I don't like in my home to keep lights on in a vacant room and really that is about what this bill is going to do. From Kittery to Bath, north of Eagle Lake, courts are going to be permitted to open, yes, they will tell you in the bill, for one night a month. They will go in, they will bring the bailiff, they will bring the judge, they bring the judge's secretary, they will bring the janitor to unlock the door, they will ring his assistant to sweep the courtroom after the court is in session, there is a lot of expense here.

The sponsor of the bill, he was very kind to us. When he explained the bill some committee members asked about the cost, the fiscal note, and the sponsor said, "Money for this bill will be no problem." You know, I have problems with every bill that takes a little bit of money.

As Confucius once said, "The longest of journeys starts with one small step." This bill is that one small step.

I think throughout Maine, not only in my city, not only in York County, not only over there in Auburn and Lewiston, people just don't dare to walk out in those streets at night. Don't open up the courts at night.

Yes, people from the judicial system appeared before us, they talked to us about not liking this bill, judges don't like this bill. We don't need a court system at night, no matter how small it starts off. I haven't been here too long, perhaps nine years. When they put things in like this on bills, I haven't been around to see them withdraw them or cancel them out two years later—they never die.

I ask, and I don't want to talk long, really, on this bill, it isn't worth that much time and I hope that we don't give it that much. I just ask that you think about it but only think about it a short while—don't look for the good in it, there is no good in it, and then vote against this motion by my Chairman, the gentleman from Saco, vote against him and then kind of watch my light and you will get the direction and then you can go home and hold your head high.

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

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: As always, the good gentleman from Portland is a very difficult act to follow.

I can assure all of you here that my support of this bill has nothing to do with the sponsorship of this legislation. As you know, the Speaker would never exert any influence on any member of this body to support or vote against a piece of legislation.

If I may, let me address what this bill does. All this bill does is require that each district court in our state be available for small claims during evening hours at least one hour each month. That is all this bill does. It allows individuals who have a matter before the district court in small claims to be able to litigate that matter in the evening hours and only gives the authority for one hour per month per court in this regard.

There are many instances in our state where individuals have a claim before the small claims court in which they find it difficult to be able to go to court during the day hours because of their jobs or because of babysitting responsibilities or other responsibilities. All this bill does, even though the judges don't like it and even though many of my fellow brothers and sisters in the law profession probably won't like it, all this bill does is it allows individuals to have their day in court, or I should say their night in court, for one hour per month. I think it is a reasonable proposal; I know that the Speaker would never sponsor anything that was unreasonable.

I urge you to support the "Ought to Pass" Report.

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

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Portland was right in that this bill doesn't need a lot of debate. It doesn't need a lot of debate because it is simple, but it does represent a small step. In my mind, it represents a small step for those people who have work, who have complaints that they have to go to the small claims court system for, and who now have an avenue for trying to resolve those complaints in a way where they are not going to have to leave their jobs, they are not going to lose their pay. That is a system that is going to be helpful for the people who are the principals of that dispute and it is also going to be an aid for the people who are witnesses, people who are asked to participate not because they are going to profit from a court action, but because they think it is their duty to do their part to see to it that the right side of the argument prevails. The way it is now, those people have to turn away from their jobs, they have to leave their salary and I think when we take it all into consideration, one hour once a month for the courts in this state is not too much to ask the judiciary or the lawyers that might represent the parties and it is a chance to give everybody in this state a voice with the most reasonable

arrangement of time possible. I think it is a reasonable bill and it may be a small step but it is a step that I think is worth taking.

I urge you, also, to accept the "Ought to Pass" Report.

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

Mr. GAUVREAU: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of the Minority "Ought to Pass" Report and I would like briefly to mention a few items which have not yet been covered in the debate.

The concept of having night court, I think, makes a lot of sense and this body should be aware that having court in the daytime for these small claims oftentimes presents a major problem to many, many litigants. Oftentimes the amount in controversy is so small, it doesn't really make sense economically to spend one, two or three days away from work in litigating a small claims matter. That is why you should be aware that small claims cases are almost exclusively tried by the litigants themselves and lawyers almost have no involvement in them, if for no other reason, the fact the money in dispute is so little.

There are many cases when a person comes to the small claims hearing for the first time and is told that his or her case will not be reached that day. They have already committed three or four hours away from work, they have to come back a second time, they may try to mediate the dispute then. They may have to come back a third time. They have already spent now ten or twelve hours away from work and the case may be only worth \$100 in the first place, so the idea makes a lot of sense.

I spoke with my clerk in my district court and she is all behind this idea. It makes a lot of sense to her.

Representative Joyce also brought up a point in his debate regarding the concept and the problem of having courts open at night. I should bring it to the attention of the members of this body that quite often courts are open at night. It is not uncommon for cases that begin in the afternoon to go into the hours of seven, eight or nine at night. I have begun cases in Skowhegan District Court beginning at ten o'clock at night, so you should not be under the notion that courts are not open at night. All we are doing is extending the small claims court to a new and broader class of people. For this reason, I urge you to support the Minority Report.

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

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I intend to support this bill today and I am going to look at it as a bill that is sponsored by the gentleman from Eagle Lake. I don't think he gave up that status by becoming Speaker of this House, and in my five years down here I have known the gentleman from Eagle Lake to come up with a few good ideas once in awhile and I think this is one.

I look at this bill as a bill that is going to help the little guy and you have heard me many times before get up and speak for that little guy and I look at it as a bill that is going to help my constituents. One thing I never forget, ladies and gentlemen of the House, is who sent me down here and why and I think this is going to make it a little easier on my people back home, a little easier to deal with a court system that they find confusing and difficult enough to deal with right now, so anything we can do in the right direction to help them out, I think we should do it.

I urge you strongly to support the very good idea from the gentleman from Eagle Lake, Mr. Martin, and let's accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Saco, Mr. Hobbs, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote

yes; those opposed will vote no.

A vote of the House was taken.

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

The Bill was read once and 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:

(S. P. 410) (L. D. 1258) Bill "An Act for the Town of Bethel to Acquire the Assets and Liabilities of the Bethel Water District and for the Dissolution of the Bethel Water District" — Committee on Public Utilities reporting "Ought to Pass"

(S. P. 342) (L. D. 1016) Bill "An Act to Establish New Selection Procedures for the Maine Indian Tribal-State Commission Chairmanship" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-76)

(H. P. 709) (L. D. 900) Bill "An Act to Amend the Composition of the Board of Pesticides Control" — Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-181)

(H. P. 1050) (L. D. 1394) Bill "An Act to Clarify Sanctions for Repeated Violation of the Labor Laws of Maine" — Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-183)

(H. P. 962) (L. D. 1243) Bill "An Act to Clarify the Timing of Fuel Adjustment Clause Cases before the Public Utilities Commission" — Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-182)

(H. P. 826) (L. D. 1084) Bill "An Act to Amend the Adult Protective Services Act" — Committee on Judiciary reporting "Ought to Pass"

(H. P. 795) (L. D. 1035) Bill "An Act to Clarify the Adoption Assistance Law" — Committee on Judiciary reporting "Ought to Pass"

(H. P. 998) (L. D. 1306) Bill "An Act Concerning Confidentiality of Information" — Committee on Judiciary reporting "Ought to Pass"

(H. P. 754) (L. D. 985) Bill "An Act to Amend the Used Car Information Law" — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-184)

There being no objections, the above items were ordered to appear on the Consent Calendar of May 4, under the listing of Second Day.

#### Consent Calendar Second Day

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

(S. P. 360) (L. D. 1081) Bill "An Act to Change References to the Public Utilities Commission in the Transportation Statutes"

(S. P. 466) (L. D. 1420) Bill "An Act to Amend the Laws Governing the Administration of Medications in Group Home Intermediate Care Facilities for the Mentally Retarded"

(H. P. 997) (L. D. 1330) Bill "An Act to Authorize Coverage of Medical Supplies Under the Low Cost Drugs for the Elderly Program" (C. "A" H-178)

(H. P. 899) (L. D. 1178) Bill "An Act to Allow Domestic Assessment Mutual Companies to Appoint Agents" (C. "A" H-180)

(H. P. 894) (L. D. 1159) Bill "An Act to Improve the Price and Availability of Radio Paging Services" (Emergency) (C. "A" H-179)

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

#### Passed to Be Engrossed

Bill "An Act Concerning Transient Sellers who Offer Merchandise as Free of Charge" (S. P. 508) (L. D. 1522)

Bill "An Act to Amend Mandatory Zoning and Subdivision Control" (H. P. 1160) (L. D. 1531)

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 Paper was passed to be engrossed and sent up for concurrence.

#### Passed to Be Enacted Emergency Measure

An Act to Amend the Social Worker Registration Act with Respect to Employment by Nursing Homes and to Foster Coordination with State and Federal Regulations Governing Required Social Services in Nursing Homes (S. P. 24) (L. D. 25) (C. "A" S-72)

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. 120 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.

#### Finally Passed Emergency Measures

RESOLVE, to Designate the Saco Spur From Route 1 to its Intersection with Ocean Park Road as "Centennial Way" to Commemorate the Year of the 100th Anniversary of the Town of Old Orchard Beach (S. P. 500) (L. D. 1506)

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 3 against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

RESOLVE, to Reduce the Amount of Money to be Raised by Taxes in Penobscot County (H. P. 1159) (L. D. 1532)

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. 122 voted in favor of same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

RESOLVE, Authorizing the Department of Marine Resources to Sell the Research Vessel Challenge and to Convert the Fishing Vessel Jubilee (S. P. 429) (L. D. 1298) (C. "A" S-65)

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. 131 voted in favor of same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act to Make the Single Axle Limit Uniform (S. P. 131) (L. D. 318)

An Act Amending the Display of Registration Plates for Truck Tractors (S. P. 163) (L. D. 451)

An Act Relating to the Investment of Funds in Litigation (S. P. 343) (L. D. 1017)

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.

#### Enactors

#### Later Today Assigned

An Act to Establish a Workers' Compensation Hearing Exemption for Agricultural Em-

ployers' Liability Insurance Claim Disputes (S. P. 358) (L. D. 1079)

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 later today assigned.

An Act to Amend the Laws Relating to Fees for Nonresident Concealed Weapons Permit (S. P. 428) (L. D. 1297) (C. "A" S-71)

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 later today assigned.

#### Enactor Reconsidered

An Act to Clarify, Simplify and Improve Certain Sections of the Labor Laws of Maine (S. P. 497) (L. D. 1503)

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

On motion of Mrs. Beaulieu of Portland, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

The same gentlewoman offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-185) 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.

An Act Concerning Probation and Suspended Prison Sentences (S. P. 498) (L. D. 1504)

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

#### Orders of the Day

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

HOUSE DIVIDED REPORT—Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Fisheries and Wildlife on Bill "An Act Concerning the Beginning Date for the Open Season on Deer" (H. P. 686) (L. D. 866)

Tabled—April 29, 1983 by Representative MacEachern of Lincoln.

Pending—Motion of same gentleman to accept the Majority "Ought Not to Pass" Report.

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

Mr. MacEachern: Mr. Speaker, Ladies and Gentlemen of the House: What this bill would do is create a same-day open season over the whole state. The way it is set up now, the northern zone opens a week ahead of the southern zone. This was done as a result of input and information given to us by the game wardens and biologists. They feel that the northern zone can stand to be opened earlier than the southern zone and because of the fact that there are fewer deer in the southern zone, they have a shorter season.

I think if we pass this bill, it is going to create some problems as far as the control of the deer herd, because the reason for the two seasons, split season, at this point is a matter of protecting those deer in the lower section of the state and allowing them a little more time to hunt in the northern area of the state because of the difference in population.

I hope you will support the majority report on this Bill, and that is "ought not to pass."

The SPEAKER: The Chair recognizes the gentleman from Millinocket, Mr. Clark.

Mr. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't accept the Majority "Ought Not to Pass" Report and accept the "Ought to Pass" Report. I believe there is a deer problem in this state and the commissioner is going to be having a buck sea-

son in the southern zone. Also, we have a problem with the coyote running wild throughout the state and I believe if we have the season the way it is now, there will be additional pressures coming to the northern zone. That is one reason why we put this bill in.

I think we need this, the pressures are there, and I don't believe we can handle all the pressure in the northern zone. Myself and the cosponsors and the people that signed this bill out believe that the season itself should be open at the same time.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: You are all aware of the condition of the deer herd in this state. The blame is a combination of things—change of habitat, clear cutting and the coyote.

Hunting pressure is what this L.D. addresses. This L.D. will open the season across the state at the same time. It cuts one week from the northern zone.

At the present time, the northern zone opens a week earlier than the rest of the state. This puts additional pressure to the northern zone. This fall, for the first time, we will be having a bucks only law in the southern zone in two of the districts. The eastern and western districts will have bucks only. This will also put more pressure on the northern zone as well as the central zone. If we are to bring back the deer herd, we should be taking some of the pressure off of these zones. This L.D. would help do that.

Last Wednesday, we honored a Smith in this House, the Honorable Margaret Chase Smith, a great lady. As a Smith, I am not asking to be honored, but I would like to be favored with your vote today. Please vote against the pending motion.

The SPEAKER: The Chair recognizes the gentleman from Washington, Mrs. Allen.

Mrs. ALLEN: Mr. Speaker, I would like to pose a question through the Chair. Will this mean that we will have a lengthened season in the southern zone and does it affect at all the ending of the season in either zone?

The SPEAKER: The gentleman from Washington, Mrs. Allen, has posed a question through the Chair to anyone who may care to answer.

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

Mr. SMITH: Mr. Speaker, this L.D. does not set the season; we didn't want to do that. We want the department to do that. And the way that we understand it will be done will be to simply close or take away one week from the northern zone. It will start the same time statewide and we will not add the week on the end because, there again, it would add pressure and we would be defeating our purpose. We are cutting one week from the northern zone.

The SPEAKER: The Chair recognizes the gentleman from Washington, Mrs. Allen.

Mrs. ALLEN: Mr. Speaker, I understand that is the intent of the bill but the bill does not say that. I believe it will be in the hands of the commissioner, and that is the question.

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

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: I would feel somewhat remiss this morning if I didn't make a few remarks.

Several years ago, I was the sponsor of a like bill which would open the season across the state. We do have problems with the glut of hunters in certain areas because of split seasons. The argument then and the argument now is the same, that we would be shortening the season. Well, I would like to tell you, for your information, if any of you don't know this, I would just remind you that the commissioner has a time frame of six weeks wherein to set the deer season. Fish and Wildlife sets the sea-

son to the best of their knowledge to the availability of the game so that we protect our game herd. Of course, we all subscribe to that. But when you argue that you are going to shorten the season, that certainly doesn't hold water because you could have a later season.

Two sporting camps from Aroostook were really instrumental in killing the bill that I sponsored several years ago and their argument was simply that we were going to shorten their season, we were going to destroy their business and they depended on that for their livelihood. Well certainly that is not so. They made the remark that we were going to shorten the season and I responded that they could have the season at the end, and we heard several people that day say that they liked to hunt on snow, so certainly that is not a valid comment when you say you are going to shorten the season.

At that time I remarked, and I will again, that if I were asked by the department, which I am sure I wouldn't be, on how to set the season, I would say that since we have the first Saturday of the season for Maine residents only I would set it the first Monday after the first Saturday in November, and certainly there would be no fairer provision for all hunters across the state than that.

I hope you will go against the motion this morning that is on the floor.

The SPEAKER: The Chair will order a vote. 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.

A vote of the House was taken.

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

Sent up for concurrence.

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

HOUSE REPORT—"Ought to Pass" in New Draft (H. P. 1161) (L. D. 1533) — Committee on Appropriations and Financial Affairs on Bill "An Act to Maximize the Availability of Certain Social Services by Providing for Income from Fees and Remove References to Federal Requirements which no Longer Exist" (H. P. 828) (L. D. 1066)

Tabled—May 2, 1983 (Till Later Today) by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

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

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

An Act to Amend Maine's Wrongful Death Law (H. P. 398) (L. D. 481) (C. "A" H-141)

Tabled—May 2, 1983 (Till Later Today) by Representative Hobbins of Saco.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed, and I would ask for a roll call.

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 Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: This bill went through the House a couple of times and we let it go by, but the fact

is that today is the day of reckoning and I think that we should take a good look at it and I think that this is a bad bill.

The bill itself proposes that we raise the amount of recovery from \$50,000 to \$100,000. Two years ago, the legislature moved it up from a \$10,000 limit to \$50,000 for loss of consortium claims under the Wrongful Death Act.

This is a trial lawyer's bill and they want to double it again, from \$50,000 to \$100,000. What this means to the people of this state is that the indication of increasing the limits on any insurance recovery will also increase the premiums and this is the truth. The indication is that as the benefits increase, the rates will follow. Today in Maine we have one of the highest rates in the country as far as insurance is concerned.

We had a similar bill last year but it was to increase automobile insurance and that was killed and that was a wise move when we did that.

I might also add, at present the State of Maine is one of the few states that enjoys reasonable rates and realistic judgments, and the reason for that is because we have limits on judgments.

If you really want to know what the bill is about, I always look at the first bill to see what they have done with it. In the first bill, the original bill, it says that they would have even allowed people to have a judgment for them because of loss of consortium in the wrongful death but also on the potential earnings of the people that die. I think that this was wrong. If you want to know what they intended at first, you look at the first bill, but then they compromise because they asked for a lot and then settle for less—they have taken out this part of it now that you could recover on the people's earnings for the future, which is very, very hard to determine and which is not realistic.

The current law allows recovery for pecuniary loss and this is all right. At least pecuniary loss is approvable. Consortium, which is also allowed, is only by speculation. It has its values but we can't go overboard and allow too much, because loss of consortium is strictly speculative. Some people don't get along for years but when one of them dies, the other one screams and hollers and everything else about how great he or she was just for the purpose of getting money.

I truly believe if the trial lawyers are really interested in working for the benefit of their clients, I would suggest they do away with some of the tremendous fees that they collect and I think this is more the purpose of the bill than it is concern of the individuals. I really believe that this is not a good bill and I hope you will vote to kill it.

The SPEAKER: The Chair recognizes the gentleman from Westport, Mr. Soule.

Mr. SOULE: Mr. Speaker, Ladies and Gentlemen of the House: Let me, by way of disclaimer, first tell you that I do not practice any personal injury cases so I have no particular axe to grind in this matter.

This bill was brought before the committee to reflect, hopefully, what is currently being granted in jury cases presented on the issue of damages to spouses and children of somebody who was killed wrongfully.

Under current law if someone is killed, the damages are limited to, as Mr. Carrier said, the actual pecuniary damages, that is medical bills, lost wages and those kinds of damages. There is, in addition to that, a maximum of \$50,000 for the loss of that family member and what we are talking about when we talk about this \$50,000 or \$100,000 figure, it is merely a cap on what can be recovered for those kinds of damages and injuries. It is not a level of compensation which was hinted at earlier.

I think the crucial thing to remember here is that the amendment changes this cap. It doesn't change in which way those damages are awarded; those damages are still left to the

consideration of the jury in each individual case. I think the equity in this bill lies in the fact that it does allow the jury to consider those damages and in those unusual cases where an award is needed up to \$100,000, that can be awarded by the jury.

The juries in this state are relatively conservative and I have a great faith in their ability to judge each individual case, but there are cases where the damages, in those unusual cases, that do exceed this \$50,000 limit that we have now. That is the question and I hope you will give it its proper consideration.

This is a Majority Report and I hope you go with it.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: Since I am in strange company on this report, I feel that I should give you my reasons for agreeing with Representative Carrier, which I very rarely do.

This bill does do exactly one thing, it increases the amount that you can be granted because of a wrongful death from \$50,000 to \$100,000. Two years ago, I might add, it was \$10,000, and we did agree to increase it to \$50,000 which at that time I even had a hard time accepting. And Representative Soule is correct, it is simply a cap and it would allow the jury to decide how much should be granted. However, this \$100,000 would be for, and I quote from the amendment, this is for what you call consortium: "For the loss of comfort, society and companionship of the deceased to the person for whose benefit the action is brought," etc.

Now, I don't know how you judge how much loss of love, companionship, etc., is worth. I can and do agree with compensation being provided for loss of economic benefit, and that is not addressed or changed at all by this law. The only thing they are changing or want to change is going from \$50,000 to \$100,000.

I would like to read a letter I received, and I will be forthright with you and tell you it came from four insurance companies, but it does address a point which I think should be addressed and I quote: "This is typically a trial lawyer's bill and it is clearly designed to increase their contingency with very little or no concern to the aggrieved person or their families." I am not saying that that is entirely correct, but a contingency, for those of you who may not know, the average contingency fee is 33 1/3 percent of whatever the judgment is. I simply see no reason for this legislature to go from \$50,000 to \$100,000, when two years ago we went from \$10,000 to \$50,000.

I agree with Representative Carrier and think this bill ought to be indefinitely postponed.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I know it is very easy to get up on this floor like it has been done since the state was incorporated and argue that this is a lawyer's bill. If the tone of the debate is going to be based upon that particular argument, of course, I as a lawyer will lose the argument. I think we should look at this not as a lawyer's bill, but we should look at the issue of what is wrongful death.

Wrongful death is the following situation: When husband and wife or boyfriend or girlfriend or whatever, husband and wife say, is in an automobile accident, no fault of their own, the wife, who doesn't work at the time, dies. The person who is responsible for that automobile accident is a drunken driver. Now, under present Maine law, believe it or not, the husband is limited if the wife dies instantaneously, that person is limited to the funeral bill and \$50,000 for loss of comfort, that is if that wife or spouse doesn't work. That is what the present law states.

I will give you an example and it is a case

that I had a few years ago, no names will be mentioned. This particular boy was a passenger in a car, a senior in high school, and because of the negligence of the driver and an individual who pulled out of the road, this boy died as a result of that accident. Now, when the aggrieved father came to see me, he was worried about how much the funeral bill would cost, never mind whether he had a case or not. In developing the case, I had to ask some very very touching questions of this client and one of the questions that I asked the father was, "was your son killed instantaneously?" The father looked at me and said "I don't know whether he was killed instantaneously." He said, "What difference does it make?" I said, "It makes a lot of difference, because if he wasn't killed like that and if he moaned and groaned a little bit and there was some pain and suffering, it would be a tragic difference in how much his estate could collect." That is the absurdity of the present situation under Maine law.

When I was dealing with the insurance adjuster in this case, we both had to address that issue of whether or not he died instantaneously, this boy, or he died after suffering some pain and suffering and we both hired an investigator. The investigator had to go out and ask questions of those who survived the crash and those who came upon the scene of the crash whether or not that person exhibited any signs of life. Fortunately for the insurance company, I can tell you the conversation like it was yesterday, the insurance adjuster was relieved that there was no sign of life, because then he knew that the most his company would have to pay out under Maine law would be \$50,000 to the estate, to the parents for loss of consortium and the funeral bill. He was relieved because if that poor boy would have lived for two hours or four hours or ten hours or three weeks and then died, or would have exhibited any type of life at all, the insurance company would have been on the hook for a few more dollars.

I think it is grossly unfair, if given the scenario which I gave earlier, that a spouse driving a car, who happens not to be employed at that particular time, is killed because of the negligence of someone else and is killed instantaneously, that individual, the wrongdoer, would only be liable under Maine law up to \$50,000.

The irony of the earlier story I explained to you was that this accident occurred in October of 1981, three days after the law had changed from \$10,000 to \$50,000 and the claims adjuster said, "Too bad the accident wasn't last week because we would only be on the hook for \$10,000."

The reason the law is as it is now under Maine law, limiting it to \$50,000, is not because of justice, it is because of a high powered traditional insurance lobby that has been able to keep that figure low. That is the reason it is low. In many states it is not low at all.

All this bill does, as a compromise of the committee, is adjust that \$50,000 figure to \$100,000 and it allows the jury, a jury of personal peers, to make the decision and determine what type of loss is involved with that individual or that estate.

I urge you to support the 10 to 3 "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I think Representative Hobbins has confused the issue somewhat and I also would have to admit that it is somewhat difficult for me to argue with him because he is a trained lawyer. So I will have to speak in our language and he can speak in the legal language; sometimes the legal language seems to make more sense.

The example that Representative Hobbins gave about the child that was killed which, of course, we would all sympathize with, I have a 12-year-old daughter myself, I believe and I

can stand to be corrected if I am wrong, but the reason why they could not bring a claim of more than \$50,000 was because the child was killed instantly versus an hour later or a day later and because in the second instance you would have been bringing a claim on behalf of the child, for pain and suffering that the child, indeed, sustained. I believe that that is the difference. I am not a lawyer, I could be wrong.

In the second example of the mother, I would think that in today's world, there is certainly recognition given to the commitment made by a mother who stays home and doesn't work and the cost to a family to replace the mother if the mother were instantly killed, so I am not sure that I buy that argument. I certainly have never been a pawn of any insurance lobbyist probably and would be very suspect as, I might add, am I suspect to trial lawyers' lobbyists.

This is simply an issue that I have always felt very strongly about. If my 12-year-old daughter were killed instantly, how can \$50,000 bring her back? How can \$100,000 bring her back? How can it replace her companionship, her love, etc.? You cannot put a dollar figure on that, but if we allow people to be granted those kinds of awards, then we can end up with a state where this kind of action is brought all the time and insurance can become very expensive.

Remember, in the case of a person who does support a family, if he or she is killed, you can go to court and you can receive damages for economic loss, loss that you need to support your family and your children, whether it be male or female.

I hope that I have answered that, I have answered as clearly as I can.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I certainly will be brief today. This bill stayed a long time in our committee. I had to put it through many tests. It certainly passed all those tests. I had no problem with the face to face test which is the last test that I usually give it, and then to come here this morning, I hear my Chairman, Representative Hobbins, and I highly support his stand on this bill. Then I see that gentlelady from the rich shores of Cape Elizabeth, from the rich shores of South Portland, get up and defend her position on the bill. Yes, I think from time to time we should think of the insurance companies; it is good that we should give them some thought.

I think back when I was with the majority of drivers in the State of Maine; my agent told me each year that I had plenty of insurance. I had 10 and 20. Well, it went on a few years and I didn't think I was getting old during that period but my insurance writer told me that I should have between 50 and 60 and I know those that I can see just a few gray hairs in their head, they recall that. Remember, they thought you were rich when you had \$50,000 to \$60,000. Several years ago, my agent said, everybody should have \$100,000 to \$200,000 but he never said to me that the limit is \$50,000 that they can collect against it. Most people today have that insurance of \$100,000 to \$200,000.

This bill, I think you should put it in its proper perspective. I think we missed the point here this morning, that lost son or that lost daughter—I couldn't afford to lose any one of my six children, not enough money to compensate for that.

I would just like to ask you to think back a few short months ago as we debated that drunken driver bill, and I ask for that lady to pass before you again today, we had her on this floor so often—remember that lady pushing the baby carriage down the street and she would get hit by the drunken driver and how much that stuck to our hearts and made us think sadly. Many days in this House we felt for



that poor lady pushing the baby carriage. That is how my feelings go today on this bill. I think you have got to think of that lady again as she passes through our memories in here. What if that driver strikes her, kills her, kills her and that baby in the carriage? I don't think this is a lawyer's bill, I think this is a people's bill whose time has come and I ask that you oppose the indefinite postponement of this bill and that you vote in support of it.

The SPEAKER: The Chair recognizes the gentleman from Newport, Mr. Reeves.

Mr. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I, too, do not intend to stand up here and take much of your time today. The hour is getting late and I certainly don't want to be blamed by the other 148 members for bringing you back this afternoon, but I do feel that I must express a few words on what I call a monstrous bill.

I don't want to repeat anymore than I have to about what you have heard. I agree with what Representative Carrier said, I agree with what Representative Benoit has said, I agree with some of what Representatives Hobbins and Joyce have said.

I have heard two or three times that this was a lawyer's bill. Ladies and gentlemen, I don't consider this a lawyer's bill, I consider it an attorney's dream.

I was talking yesterday about increasing fees by a hundred percent. This will be increasing this amount of recoverable damage a thousand percent in two years. They have told you the truth. Two years ago, the limit was \$10,000. In the last session, we increased that 500 percent, which I opposed, to \$50,000. Now they come back, as Representative Carrier told you, and they come in with an open-ended bill. They want it subject to your potential lifetime earnings—real open tact. They had a compromise and settled for \$100,000. I did not agree, obviously, with that compromise.

Again I might point out, if this is not a lawyer's dream, you might take note of how the bill was signed out of committee. I saw none of their signatures opposed to it.

During the committee workshop, we discussed it several times, asked several questions about the possible increase in insurance premiums. We could not get any answers. We asked the questions but nobody could answer it. They said, "We cannot provide you with any concrete figures at this time." But, ladies and gentlemen, you and I know that as these settlements increase, insurance premiums are going to have to increase to pay them. You and I and everybody else is going to have to pay an increase in our policy rate. We don't know when this increase is going to come, it could come next year, the year after or the year after that, but I honestly and sincerely feel that it is going to be in the not too distant future that we are going to pay more for insurance.

I am not going to take any more of your time. I think we have given you a good view of the other side and I would ask you to support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: I didn't look at this as a lawyer's bill, but I have heard the old story about if you hit someone, make sure they are dead because it is cheaper, and that, ladies and gentlemen, is true.

At the present time, you could be paying an insurance of one and three, \$100,000 and \$300,000, and the most anyone can collect on a wrongful death is \$50,000, even though you are paying \$100,000 and \$300,000. That you have to keep in mind; that is why no one could come up with a figure on the insurance.

This doesn't mean that you are going to get \$50,000; you have to go in before a jury and a jury decides. At the present time, they might decide, even though the limit is \$50,000, you are only going to get \$20,000. This also means that

if the limit is \$100,000, a jury will then decide what you will get up to \$100,000.

But if you will look at your policy, I would suspect most of you are paying for coverage between \$100,000 and \$300,000. This is geared mostly to the spouse and the surviving children of someone wrongfully killed. I think the thing that really made me take a hard look at the bill was the fact that people that are instantly killed, their families are very limited into what they do receive for this wrongful death.

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I just want to explain to you why I am going to go along with Mr. Carrier on this bill today. I had a 24-year-old brother get killed instantly with a load of logs and he left two small babies, so I think we ought to go along with Mr. Carrier on this bill today.

Ms. Benoit of South Portland was granted permission to speak a third time.

Ms. BENOIT: Mr. Speaker and Members of the House: Mrs. Foster is right but only right as far as the \$50,000 for consortium is concerned for loss of companionship, love, etc. It has absolutely nothing to do with pecuniary loss, loss of financial support. Remember, this is only for consortium that we are addressing.

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

#### ROLL CALL

YEA—Allen, Anderson, Armstrong, Bell, Benoit, Bonney, Bott, Brown, A.K.; Brown, K.L.; Callahan, Carrier, Carroll, G.A.; Carter, Cashman, Clark, Conary, Connors, Cote, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Dudley, Hall, Hickey, Higgins, L.M.; Jackson, Jacques, Joseph, Kelly, Ketover, Kiesman, Kilcoyne, Lebowitz, Lehoux, Lewis, Locke, MacBride, MacEachern, Martin, A.C.; Masterman, Masterton, Maybury, McGowan, McHenry, McPherson, Melendy, Michaud, Moholland, Murphy, Murray, Norton, Paradis, E.J.; Parent, Perkins, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Roberts, Roderick, Rotondi, Scarpino, Sherburne, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Strout, Swazey, Tammara, Telow, Thompson, Vose, Walker, Webster, Wentworth, Weymouth, Willey.

NAY—Ainsworth, Andrews, Baker, Beaulieu, Bost, Brannigan, Brodeur, Cahill, Carroll, D.P.; Chonko, Connolly, Cooper, Cox, Crouse, Diamond, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Handy, Hayden, Hobbins, Holloway, Ingraham, Joyce, LaPlante, Lisnik, Livesay, Macomber, Manning, Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; McCollister, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Nadeau, Nelson, Paul, Perry, Reeves, P.; Richard, Rolde, Salsbury, Seavey, Soucy, Soule, Stevens, Theriault, Tuttle, Zirkilston.

ABSENT—Brown, D.N.; Higgins, H.C.; Jalburt, Kane, Kelleher, Mahany, Paradis, P.E.; Ridley, Small, The Speaker.

Yes, 84; No, 55; Absent, 10; Vacant, 2.

The SPEAKER: Eighty-four having voted in the affirmative and fifty-five in the negative, with ten being absent and two vacant, the motion does prevail.

Sent up for concurrence.

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

House Report—"Ought to Pass" in New Draft under New Title Bill "An Act to Clarify Legislative Intent Concerning Funding of the Maine State Retirement System" (H. P. 1155) (L. D. 1525)—Committee on Aging, Retirement and Veterans on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Maintain and Protect the Integrity of the

Maine State Retirement System" (H. P. 25) (L. D. 30)

Tabled—May 2, 1983 (Till Later Today) by Representative Mitchell of Vassalboro.

Pending—Acceptance of Committee Report.

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

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

Bill "An Act to Identify and to Promote Excellence in Schools" (Emergency) (H. P. 1163)

Tabled—May 2, 1983 (Till Later Today) by Representative Carter of Winslow.

Pending—Motion of same gentleman to Reconsider whereby this Bill was referred to the Committee on Education.

Mr. Carter of Winslow requested permission to withdraw his motion to reconsider, which was granted.

Sent up for concurrence.

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

#### Ought to Pass in New Draft

Report of the Committee on Health and Institutional Services on Bill "An Act Concerning Smoking in Nursing Homes" (S. P. 406) (L. D. 1254) reporting "Ought to Pass" in New Draft (S. P. 517) (L. D. 1538)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

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

#### Divided Report

Majority Report of the Committee on Agriculture on Bill "An Act to Make More Efficient the Enforcement of Laws Relating to Cruelty to Animals" (S. P. 87) (L. D. 218) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to the Humane Treatment of Animals" (S. P. 515) (L. D. 1530)

Report was signed by the following members:

Senators:

WOOD of York  
ERWIN of Oxford

— of the Senate.

Representatives:

SHERBURNE of Dexter  
CROUSE of Washburn  
MICHAEL of Auburn  
MCCOLLISTER of Canton  
ANDERSON of Stockholm  
PARENT of Benton  
SMITH of Island Falls  
LOCKE of Sebec  
STOVER of West Bath  
MAHANY of Easton

— of the House.

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

Report was signed by the following member:

Senator:

HICHENS of York

— of the Senate.

Came from the Senate with the Majority "Ought to Pass" in New Draft under New Title 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 Auburn, Mr. Michael.

Mr. MICHAEL: Mr. Speaker, I move we accept the Majority "Ought to Pass" Report in concurrence.

The SPEAKER: The Chair recognizes the gentleman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker, I would pose a question through the Chair. I would like to know about the enforcement measure that is in this bill. It says "consulting with the commissioner of Education and Cultural Services and



not with the Department of Agriculture." I wonder if someone could answer that question.

The SPEAKER: The gentlewoman from Edgecomb, Mrs. Holloway, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. McCOLLISTER: Mr. Speaker, I believe that the Education Commissioner is involved only in those cases of laboratory animals in schools.

Whereupon, Mrs. Holloway of Edgecomb requested a division.

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

A vote of the House was taken.

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

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

Majority Report of the Committee on Health and Institutional Services on Bill "An Act to Establish the Third-party Prescription Program Act" (S. P. 199) (L. D. 621) reporting "Ought to Pass" in New Draft (S. P. 518) (L. D. 1539)

Report was signed by the following members:

Senators:

BUSTIN of Kennebec  
CARPENTER of Aroostook  
GILL of Cumberland

— of the Senate.

Representatives:

NELSON of Portland  
CARROLL of Gray  
PINES of Limestone  
WEBSTER of Farmington  
SEAVEY of Kennebunkport  
MAYBURY of Brewer  
MELENDY of Rockland  
RICHARD of Madison  
MANNING 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 member:

Representative:

BRODEUR of Auburn

— of the House.

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.

On motion of Mrs. Nelson of Portland, the Majority "Ought to Pass" Report was accepted in concurrence, the New Draft read once and assigned for second reading tomorrow.

### Consent Calendar

#### First Day

(S. P. 284) (L. D. 872) Bill "An Act to Promote Work-site High Blood Pressure Programs for Maine Workers"—Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-78).

(S. P. 464) (L. D. 1413) RESOLVE, to Authorize the Commissioners of Cumberland County to Reimburse the Town of Harpswell \$9,781.22 Unexpended Retirement Funds—Committee on Local and County Government reporting "Ought to Pass".

No objections having been noted, the above items were ordered to appear on the Consent Calendar of May 4, under the listing of Second Day.

The Chair laid before the House the following matter:

Bill "An Act Relating to Hazardous Material" (H. P. 1167) which was tabled and later today

assigned pending reference. (Committee on Transportation was suggested)

Thereupon, the Bill was referred to the Committee on Transportation, ordered printed and sent up for concurrence.

#### (Off Record Remarks)

Mr. Stevenson of Unity was granted unanimous consent to address the House.

Mr. STEVENSON: Mr. Speaker, this morning on Page 6 of our printed calendar, L. D. 201, Bill "An Act Relating to Abortions in the Third Trimester," was introduced in good faith and had a well-attended, fair hearing. I was not consulted. It appears on our calendar "Leave to Withdraw." I did not withdraw the bill. If it was to be defeated by the committee, it should have come out "ought not to pass."

On motion of Mr. Lisnik of Presque Isle,

Adjourned until nine o'clock tomorrow morning.