

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

INDEX

FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

INDEX

FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

INDEX

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

INDEX

HOUSE

Monday, March 19, 1984

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

Prayer by Representative Carl B. Smith of Island Falls.

The members stood for the Pledge of Allegiance.

The Journal of Friday, March 16, 1984, was read and approved.

Papers from the Senate

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$4,950,000 for Energy Conservation, Capital Improvements, Construction, Renovations, Equipment and Furnishings for Various State Departments" (S. P. 838) (L. D. 2267)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Later Today Assigned

Bill "An Act to Clarify the Disciplinary Procedure of the Nurse Practice Laws" (S. P. 839) (L. D. 2263)

Came from the Senate, referred to the Committee on Business Legislation and Ordered Printed.

On motion of Representative Racine of Biddeford, tabled pending reference in concurrence and later today assigned.

Bill "An Act to Clarify the Sand Dunes Law" (S. P. 840) (L. D. 2264)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Clarify the Definition of "Traffic" with Respect to Growing and Cultivating Marijuana" (S. P. 841) (L. D. 2265)

Came from the Senate, referred to the Committee on Judiciary and Ordered Printed.

Was referred to the Committee on Judiciary in concurrence.

RESOLVE, Authorizing and Directing the Department of Transportation to Continue to Study and Report on the condition of State and Local Bridges on the Local and Collector Systems and to Recommend Strategies for Improving their Overall Condition" (Emergency) (S. P. 844) (L. D. 2291)

Came from the Senate, referred to the Committee on Transportation and Ordered Printed.

Was referred to the Committee on Transportation in concurrence.

Ought to Pass in New Draft

Report of the Committee on Business Legislation on Bill "An Act to License Occupational Therapists" (S. P. 757) (L. D. 2066) reporting "Ought to Pass" in New Draft (S. P. 837) (L. D. 2243).

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

Report was read and accepted, the New Draft given its first reading and assigned for its second reading later in today's session.

**Divided Report
Tabled and Assigned**

Majority Report of the Committee on Judiciary on Bill "An Act to Increase the Number of Superior Court Justices and District Court Judges" (S. P. 657) (L. D. 1847) reporting "Ought to Pass" in New Draft (S. P. 842) (L. D. 2262)

Signed:

Senators:

COLLINS of Knox

TRAFTON of Androscoggin
VIOLETTE of Aroostook

Representatives:

HAYDEN of Durham
DRINKWATER of Belfast
JOYCE of Portland
LIVESAY of Brunswick
SOULE of Westport
FOSTER of Ellsworth
HOBBS of Saco

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

Signed:

Representatives:

REEVES of Newport
CARRIER of Westbrook
BENOIT of South Portland

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

On motion of Representative Mitchell of Vassalboro, tabled pending acceptance of either Report and tomorrow assigned.

**Petitions, Bills and Resolves
Requiring Reference**

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

Agriculture

Bill "An Act to Establish a Poultry Disease Control Fund" (Emergency) (H. P. 1741) (Presented by Representative Lisnik of Presque Isle) (Cosponsors: Senators Teague of Somerset and Wood of York) (Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24)

Ordered Printed.

Sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act Making Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (H. P. 1742) (Presented by Representative Connolly of Portland) (Cosponsors: Senator Wood of York and Representative Nadeau of Lewiston) (Submitted by the Division of Community Services pursuant to Joint Rule 24)

Bill "An Act Making Appropriations from the General Fund to Implement Certain Recommendations of the Governor's Commission on the Status of Education in Maine for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (H. P. 1743) (Presented by Representative Mitchell of Vassalboro) (Cosponsors: Representative Locke of Sebec, Senators Hayes of Penobscot, Clark of Cumberland)

Ordered Printed.

Sent up for concurrence.

Business Legislation

Bill "An Act to Clarify the Extension of Consumers' Freedom of Choice Regarding Insured Mental Health Services" (H. P. 1744) (Presented by Representative Rolde of York) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.

Sent up for concurrence.

Health and Institutional Services

RESOLVE, Extending the Life of the Commission to Examine the Availability, Quality and Delivery of Services Provided to Children with Special Needs (Emergency) (H. P. 1739) (Presented by Representative Benoit of South Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.

Sent up for concurrence.

Judiciary

Bill "An Act to Ensure Statewide Uniformity in the Procedures for Body Searches and Body

Cavity Searches of Arrestees by Law Enforcement Officers while Respecting the Civil Rights and Liberties of Arrestees" (H. P. 1745) (Presented by Representative Joseph of Waterville) (Cosponsors: Representatives Benoit of South Portland, Gauvreau of Lewiston and Senator Bustin of Kennebec) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Bill "An Act to Establish a Policy and Procedure for Law Enforcement Officers Engaged in the Pursuit of Fleeing or Speeding Vehicles" (H. P. 1746) (Presented by Representative Carroll of Limerick) (Cosponsor: Representative Perry of Mexico) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Bill "An Act Concerning Use of Computer Transcripts" (H. P. 1748) (Presented by Representative Nadeau of Lewiston)

Ordered Printed.

Sent up for concurrence.

Taxation

Bill "An Act Providing for Administrative Changes in Maine Tax Laws" (H. P. 1747) (Presented by Representative Higgins of Portland) (Cosponsor: Senator Wood of York) (Submitted by the Department of Finance and Administration pursuant to Joint Rule 24)

Bill "An Act to Repeal the Sales Tax on Meals and Lodging and to Establish a Meals and Lodging Tax for the Purposes of Stabilizing the Property Tax and Promoting Tourism" (H. P. 1737) (Presented by Speaker Martin of Eagle Lake) (Cosponsor: Senator Conley of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.

Sent up for concurrence.

Reported Pursuant to the Statutes

Representative Higgins from the Committee on Taxation, pursuant to the Maine Revised Statutes, Title 1, Chapter 31 ask leave to submit its findings and report that the accompanying RESOLUTION, Proposing an Amendment to the Constitution of Maine to Relieve Municipalities from the Loss of Tax Base Caused by Property Tax Exemptions by Requiring that the State Pay at Least 50% of the Cost of any New State Mandated Programs" (H. P. 1728) (L. D. 2281) be referred to this Committee for Public Hearing and printed pursuant to Joint Rule 18.

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

Reported Pursuant to the Statutes

Representative Higgins from the Committee on Taxation, pursuant to the Maine Revised Statutes, Title 1, Chapter 31 ask leave to submit its findings and report that the accompanying Bill "An Act to Revise the Procedure Relating to the Review of Property Tax Exemptions and to Amend Certain Laws Relating to Property Tax Exemptions" (H. P. 1729) (L. D. 2282) be referred to this Committee for Public Hearing and printed pursuant to Joint Rule 18.

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

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

Representative Masterman from the Committee on Taxation on Bill "An Act to Exempt Coastal Islands from the Fire Suppression Tax" (H. P. 1498) (L. D. 1973) reporting "Leave to Withdraw"

Representative Kane from the Committee on Taxation on Bill "An Act to Repeal the Maine Capital Corporation and to Incorporate it under the General Corporation Law of the State" (H. P. 1609) (L. D. 2125) reporting "Leave to Withdraw"

Representative Kilcoyne from the Commit-

tee on Taxation on Bill "An Act to Create a Maine State Income Tax Exemption for Taxpayers with Special Needs Dependents" (H. P. 1515) (L. D. 1990) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative Robinson from the Committee on Public Utilities on Bill "An Act Establishing Penalties for Violations of the Disconnection and Deposit Regulations of the Public Utilities Commission" (H. P. 1486) (L. D. 1949) reporting "Ought to Pass" in New Draft (H. P. 1735) (L. D. 2288)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft

Representative Roderick from the Committee on Public Utilities on Bill "An Act Relating to Issuance of Bonds by Sanitary Districts" (Emergency) (H. P. 1534) (L. D. 2010) reporting "Ought to Pass" in New Draft (H. P. 1738) (L. D. 2290)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft

Representative Brodeur from the Committee on Health and Institutional Services on Bill "An Act Concerning the Disclosure of Licensing Records Regarding Adult and Child Care Programs" (H. P. 1502) (L. D. 1978) reporting "Ought to Pass" in New Draft (H. P. 1740) (L. D. 2294)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass in New Draft/New Title

Representative Moholland from the Committee on Transportation on Bill "An Act Concerning Long-term Trailer Agents under the Motor Vehicle Laws" (H. P. 1542) (L. D. 2030) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Registration Certificates for Long-term Trailers and Semi-trailers" (H. P. 1725) (L. D. 2271)

Report was read and accepted, the New Draft given its first reading and assigned for second reading later in today's session.

Ought to Pass

Pursuant to Joint Order (H. P. 1572)

Representative Wentworth from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Waldo County for the Year 1984 (Emergency) (H. P. 1722) (L. D. 2268) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1572)

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

Ought to Pass

Pursuant to Joint Order (H. P. 1572)

Representative Curtis from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1984 (Emergency) (H. P. 1723) (L. D. 2269) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1572)

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

Ought to Pass

Pursuant to Joint Order (H. P. 1572)

Representative McHenry from the Commit-

tee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Cumberland County for the Year 1984 (Emergency) (H. P. 1724) (L. D. 2270) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1572)

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

Ought to Pass

Pursuant to Joint Order (H. P. 1572)

Representative Walker from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1984 (Emergency) (H. P. 1730) (L. D. 2283) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1572)

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

Ought to Pass

Pursuant to Joint Order (H. P. 1572)

Representative Ingraham from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1984 (Emergency) (H. P. 1731) (L. D. 2284) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1572)

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

Ought to Pass

Pursuant to Joint Order (H. P. 1572)

Representative McHenry from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1984 (Emergency) (H. P. 1732) (L. D. 2285) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1572)

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

Ought to Pass

Pursuant to Joint Order (H. P. 1572)

Representative Daggett from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1984 (Emergency) (H. P. 1733) (L. D. 2286) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1572)

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

Ought to Pass

Pursuant to Joint Order (H. P. 1572)

Representative Rotondi from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1984 (Emergency) (H. P. 1734) (L. D. 2287) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1572)

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

By unanimous consent, the preceding Resolves were ordered sent forthwith to the Senate.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" as

amended by Committee Amendment "A" (H-527) on Bill "An Act to Provide Limitations on Fishing by Weirs, Purse and Stop Seines and to Provide Notice for the Location of Weirs and their Maintenance" (Emergency) (H. P. 1516) (L. D. 1991)

Signed:

Senators:

MINKOWSKY of Androscoggin
DUTREMBLE of York
SHUTE of Waldo

Representatives:

SCARPINO of St. George
VOSE of Eastport
CROWLEY of Stockton Springs
MANNING of Portland
AINSWORTH of Yarmouth
HOLLOWAY of Edgcomb
MITCHELL of Freeport
MELENDY of Rockland

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

Signed:

Representatives:

SALSBURY of Bar Harbor
CONNERS of Franklin

Reports were read.

On motion of Representative Crowley of Stockton Springs, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-527) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Later Today Assigned

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on RESOLVE, to Reimburse David James McDaniel for Damages Suffered as a Result of Wrongful Imprisonment (H. P. 761) (L. D. 992)

Signed:

Senators:

COLLINS of Knox
VIOLETTE of Aroostook
TRAFTON of Androscoggin

Representatives:

SOULE of Westport
JOYCE of Portland
LIVESAY of Brunswick
DRINKWATER of Belfast
REEVES of Newport
HAYDEN of Durham

Minority Report of the same Committee Reporting "Ought to Pass" on same RESOLVE.

Signed:

Representatives:

FOSTER of Ellsworth
HOBBINS of Saco

Reports were read.

On motion of Representative Mitchell of Vassalboro, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-526) on Bill "An Act Relating to Scallop Fishing" (H. P. 1510) (L. D. 1985).

Signed:

Senators:

MINKOWSKY of Androscoggin
DUTREMBLE of York
SHUTE of Waldo

Representatives:

MANNING of Portland
MELENDY of Rockland
AINSWORTH of Yarmouth
SCARPINO of St. George
CROWLEY of Stockton Springs
VOSE of Eastport
HOLLOWAY of Edgcomb
SALSBURY of Bar Harbor
MITCHELL of Freeport

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

Signed:

Representative:

CONNERS of Franklin

Reports were read.

On motion of Representative Crowley of Stockton Springs, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-526) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Divided Report

Later Today Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-525) on Bill "An Act Relating to Occupational Safety and Health of Agricultural Workers" (H. P. 1474) (L. D. 1935)

Signed:

Senators:

DUTREMBLE of York
HAYES of Penobscot

Representatives:

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

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

Signed:

Senator:

SEWALL of Lincoln

Representatives:

ZIRNKILTON of Mt. Desert
WILLEY of Hampden
BONNEY of Falmouth
ROBINSON of Auburn

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 to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Robinson.

Mrs. ROBINSON: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the pending motion.

What this bill does is it transfers the authority for dealing with any problems in farms from the Department of Agriculture, where I feel they rightfully belong, to the Department of Labor.

Apparently, the whole bill arose because of some alleged problems in the blueberry fields. However, the bill goes far beyond dealing with any alleged problems in the blueberry fields by allowing the Department of Labor to start establishing rules and regulations for the safety in most of the farms of this state. That means that if you have dairy farms in your district, or vegetable farms in your district, you could have the Department of Labor personnel in there watching every move that is made. At least the bill is written so the Department of Labor can make any rules and regulations that it desires on this particular point.

I have serious problems with this not only because I feel that it is the Department of Agriculture that should be dealing with our farms, but also because I feel that the Department of Labor has not been doing a great job in making its rules and regulations as of late. We all know the problems with the chemical identification bills; that's an example of the kinds of rules and regulations that the Department of Labor makes when it has a chance.

For these reasons, I hope that you will keep this problem and everyone that deals with it in the Department of Agriculture instead of in the Department of Labor, and I urge you to vote against the pending motion and would ask for a roll call.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: Today, the Committee

on Agriculture is hopefully going to meet with the Commissioner to hear why the Commissioner has supported this bill. It came as a total surprise to the Agriculture Committee that this was happening, and I wish someone would table this so that we on the Agriculture Committee will not have to oppose this until we know what the Commissioner's reasons are.

Whereupon, on motion of Representative Beaulieu of Portland, tabled pending her motion to accept the Majority Report and later today assigned.

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought Not to Pass" on Bill "An Act to Revise the Maine Certificate of Need Act for Hospitals" (H. P. 1482) (L. D. 1945)

Signed:

Senators:

BUSTIN of Kennebec
CARPENTER of Aroostook
GILL of Cumberland

Representatives:

BRODEUR of Auburn
CARROLL of Portland
NELSON of Portland
PINES of Limestone
MELENDY of Rockland
RICHARD of Madison
MAYBURY of Brewer
SEAVEY of Kennebunkport
MANNING of Portland

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

Signed:

Representative:

WEBSTER of Farmington

Reports were read.

Representative Nelson of Portland moved that the Majority "Ought Not to Pass" Report be accepted.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill. I am not going to oppose the motion of "ought not to pass," but I would like to put a few words into the record as to why I put this bill in. Basically, the bill which would have done away with Certificate of Need for Hospitals was put in by me initially because of a problem that my hospital down in York had had with the Certificate of Need process. That particular problem, in all the 16 years that I have been up here in the legislature, was, in my opinion, the worst example of bureaucratic high-handedness that I have ever dealt with, and the problem is still continuing. It perhaps would not have bothered me so much if I found it was not costing the state money at the same time.

Even before this I did have some skepticism about the whole process of Certificate of Need. I know in one of our debates last year the gentleman from Canton, Mr. McCollister, referred to Certificate of Need as communism. I think from my position on the political spectrum I might call it fascism. But I did have some very strong questions about it and particularly why it was necessary after we had passed a very comprehensive bill for hospital cost containment.

So basically by putting in this bill I was asking those questions, and apparently they did need to be asked because the debate lasted all afternoon. We learned a number of things, that there are a number of new financial techniques coming up on the horizon, federal laws, that may very shortly make Certificate of Need obsolete.

The committee, however, because they had just put so much effort into the Hospital Cost Containment, did not feel that they should study the relationship between Certificate of Need and Hospital Cost Containment at this time, although there was strong interest on the committee in eventually looking at it.

Another part of the bill that I put in would have raised the threshold or would actually have put in a threshold for hospitals to avoid going under Certificate of Need on capital items. In other words, why should every time they want to put a new pencil sharpener in should they have to go through bureaucratic review?

Is the idea of doing away with Certificate of Need bad in itself? It is interesting to note that Idaho and New Mexico don't think so because they have already scrapped their Certificate of Need laws and Utah's will be out by the end of the year. In fact, there is a nationwide tendency to loosen the requirements of Certificate of Need. Oklahoma, for example, in dealing with the capital threshold, now allows hospitals to avoid Certificate of Need for any capital expenditure less than \$600,000 and so does Wisconsin.

What I am saying, basically, is that this bill, although it is going down today, is just the opening gun of an effort that I intend to pursue to see whether Certificate of Need is necessary given the new developments in health care and health financing.

Thereupon, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Amend the Maine Lemon Law to Include Vehicles Such as Tractor Trailers" (H. P. 1490) (L. D. 1965)

Signed:

Senators:

CLARK of Cumberland
CHARETTE of Androscoggin

Representatives:

TELOW of Lewiston
POULIOT of Lewiston
PERKINS of Brooksville
CONARY of Oakland
STEVENS of Bangor
MURRAY of Bangor

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

Signed:

Senator:

SEWALL of Lincoln

Representatives:

BRANNIGAN of Portland
MARTIN of Van Buren
MacBRIDE of Presque Isle
RACINE of Biddeford

Reports were read.

On motion of Mrs. Mitchell of Vassalboro, tabled pending acceptance of either Report and tomorrow assigned.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-530) on Bill "An Act to Permit Public Service in Lieu of Fines for Indigent Offenders Under the Drunk Driving Law" (H. P. 1427) (L. D. 1872)

Signed:

Senators:

TRAFTON of Androscoggin
COLLINS of Knox
VIOLETTE of Aroostook

Representatives:

DRINKWATER of Belfast
LIVESAY of Brunswick
HOBBINS of Saco
JOYCE of Portland
SOULE of Westport
BENOIT of South Portland
HAYDEN of Durham
POSTER of Ellsworth

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

Signed:

Representatives:

REEVES of Newport

CARRIER of Westbrook

Reports were read.

On motion of Mr. Kelleher of Bangor, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-530) was read by the Clerk and adopted and the Bill assigned for Second Reading tomorrow.

**Divided Report
Later Today Assigned**

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Permit Reasonable Visitation Rights for Grandparents when a Parent is Deceased" (H. P. 1548) (L. D. 2038)

Signed:

Senators:

COLLINS of Knox
TRAFTON of Androscoggin
VIOLETTE of Aroostook

Representatives:

DRINKWATER of Belfast
JOYCE of Portland
HAYDEN of Durham
LIVESAY of Brunswick
SOULE of Westport
REEVES of Newport
CARRIER of Westbrook
FOSTER of Ellsworth

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

Signed:

Representatives:

HOBBS of Saco
BENOIT of South Portland

Reports were read.

On motion of Mr. Carrier of Westbrook, tabled pending acceptance of either report and later today assigned.

**Divided Report
Later Today Assigned**

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act to Create the Judicial Employees Labor Relations Act" (Emergency) (H. P. 1649) (L. D. 2175)

Signed:

Senators:

DUTREMBLE of York
HAYES of Penobscot

Representatives:

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

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

Signed:

Senator:

SEWALL of Lincoln

Representatives:

ROBINSON of Auburn
ZIRNKILTON of Mt. Desert
BONNEY of Falmouth
WILLEY of Hampden

Reports were read.

Mrs. Beaulieu of Portland moved that the House accept the Majority "Ought to Pass" Report.

On motion of the same gentlewoman, tabled pending her motion to accept the Majority "Ought to Pass" Report and later today assigned.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought Not to Pass" on Bill "An Act to Prohibit Night Scallop Dragging within the 3-mile Limit in Washington County" (H. P. 1521) (L. D. 2003)

Signed:

Senators:

MINKOWSKY of Androscoggin
DUTREMBLE of York
SHUTE of Waldo

Representatives:

CROWLEY of Stockton Springs
MANNING of Portland
AINSWORTH of Yarmouth
VOSE of Eastport
HOLLOWAY of Edgcomb
MITCHELL of Freeport
MELENDY of Rockland

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

Signed:

Representatives:

SALSBURY of Bar Harbor
CONNERS of Franklin
SCARPINO of St. George

Reports were read.

On motion of Mr. Crowley of Stockton Springs, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

**Divided Report
Later Today Assigned**

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act Establishing the Emergency Service Personnel Arbitration Act" (H. P. 1299) (L. D. 1724)

Signed:

Senator:

SEWALL of Lincoln

Representatives:

ROBINSON of Auburn
WILLEY of Hampden
BONNEY of Falmouth
TAMMARO of Baileyville
SWAZEY of Bucksport
NORTON of Biddeford
ZIRNKILTON of Mount Desert

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

Signed:

Senators:

DUTREMBLE of York
HAYES of Penobscot

Representatives:

GAUVREAU of Lewiston
BEAULIEU of Portland
TUTTLE of Sanford

Reports were read.

Mrs. Beaulieu of Portland moved that the House accept the Minority "Ought to Pass" Report.

On motion of the same gentlewoman, tabled pending her motion to accept the Minority "Ought to Pass" Report and later today assigned.

Divided Report

Eight Members of the Committee on Marine Resources on Bill "An Act to Permit Possession of Soft-shell Clam Stocks 2 Inches or Greater in the Largest Diameter" (H. P. 1501) (L. D. 1975) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-528)

Signed:

Senators:

MINKOWSKY of Androscoggin
DUTREMBLE of York
SHUTE of Waldo

Representatives:

CONNERS of Franklin
SALSBURY of Bar Harbor
HOLLOWAY of Edgcomb
CROWLEY of Stockton Springs
MELENDY of Rockland

Four Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-529)

Signed:

Representatives:

MITCHELL of Freeport
MANNING of Portland
AINSWORTH of Yarmouth
VOSE of Eastport

One Member of the same Committee on same Bill reports in Report "C" that the same "Ought Not to Pass"

Signed:

Representative:

SCARPINO of St. George

Reports were read.

On motion of Mr. Crowley of Stockton Springs, the "Ought to Pass" Report A was accepted and the Bill read once.

Committee Amendment "A" (H-528) was read by the Clerk and adopted and the Bill assigned for Second Reading the next legislative day.

Divided Report

Majority Report of the Committee on Public Utilities reporting "Ought Not to Pass" on Bill "An Act to Ensure Funding for the Eventual Spent Fuel Disposal at Nuclear Power Plants" (H. P. 805) (L. D. 1045)

Signed:

Senators:

BALDACCI of Penobscot
EMERSON of Penobscot

Representatives:

VOSE of Eastport
McGOWAN of Pittsfield
RIDLEY of Shapleigh
WEYMOUTH of West Gardiner
PARADIS of Old Town
ROBINSON of Auburn
RODERICK of Oxford

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

Signed:

Senator:

KANY of Kennebec

Representatives:

BAKER of Portland
MATTHEWS of Winslow

Reports were read.

On motion of Mr. Vose of Eastport, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

**Divided Report
Later Today Assigned**

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Provide for Competitive Equality Between Financial Entities" (H. P. 1461) (L. D. 1913)

Signed:

Senators:

SEWALL of Lincoln
CLARK of Cumberland

Representatives:

CONARY of Oakland
TELOW of Lewiston
RACINE of Biddeford
MARTIN of Van Buren
MacBRIDE of Presque Isle

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H. P. 1721) (L. D. 2261) on same Bill.

Signed:

Senator:

CHARETTE of Androscoggin

Representatives:

PERKINS of Brooksville
POULIOT of Lewiston
BRANNIGAN of Portland
STEVENS of Bangor
MURRAY of Bangor

Reports were read.

On motion of Mr. Diamond of Bangor, tabled pending acceptance of either report and later today assigned.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-532) on Bill "An Act Concerning Desecration and Vandalism of Religious and other Institutions" (H. P. 1579) (L. D. 2090)

Signed:

Senators:

COLLINS of Knox
TRAFTON of Androscoggin

VIOLETTE of Aroostook
Representatives:
HOBBINS of Saco
BENOIT of South Portland
JOYCE of Portland
FOSTER of Ellsworth
HAYDEN of Durham

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

Signed:

Representatives:

REEVES of Newport
DRINKWATER of Belfast
SOULE of Westport
LIVESAY of Brunswick

Reports were read.

Whereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-532) was read by the Clerk and adopted and the Bill assigned for Second Reading later in today's session.

Consent Calendar First Day

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

(H. P. 1623) (L. D. 2147) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that, Beginning with the Property Tax Year 1984, All Watercraft as Defined by the Legislature shall be Exempt from Taxation as Personal Property, Provided That Certain Watercraft as Defined by the Legislature shall be Subject to an Excise Tax to be Collected and Retained by the Municipalities Committee On Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-534)

(H. P. 1440) (L. D. 1885) Bill "An Act Concerning Application of Fuel Tax Laws" Committee on Taxation reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-536)

There being no objections, the above items were ordered to appear on the Consent Calendar under listing of Second Day, later in today's session.

Consent Calendar Second Day

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

(S. P. 758) (L. D. 2067) Bill "An Act Requiring Insulation Contractors to Make Certain Disclosures when Installing Urea Formaldehyde Insulation"

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed in concurrence.

Passed to Be Enacted Emergency Measure

An Act to Amend the Charter of the Jackman Sewer District to Clarify the Limit on Indebtedness and to Clarify Certain Other Language in the Charter (S. P. 681) (L. D. 1859) (C. "A" S-298)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Charter of the Van Buren Light and Power District (H. P. 1562) (L. D. 2064) (H. "A" H-509)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in

favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Clarify the Authority of the Representative of the State Registrar of Vital Statistics (S. P. 744) (L. D. 2047) (C. "A" S-301)

An Act to Amend the Trustee Appointment Process of the Cumberland County Recreation Center to Make it Conform More Closely to New Legislative Redistricting (S. P. 771) (L. D. 2092) (C. "A" S-304)

An Act to Authorize Washington County to Raise \$1,400,000 for Renovations and Additions to the Washington County Jail (S. P. 788) (L. D. 2114) (C. "A" S-305)

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.

Enactor

Later Today Assigned

An Act to Replace References to Regional Presiding Justice with Chief Justice of the Superior Court (S. P. 812) (L. D. 2162) (S. "A" S-307)

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 Law Relating to Wine Franchises (S. P. 825) (L. D. 2204)

An Act Concerning the Stopping of Trucks at Roadside Weighing Points (H. P. 1475) (L. D. 1936)

An Act to Amend the Medical Radiation Health and Safety Act (H. P. 1567) (L. D. 2076)

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.

Bill Held

Bill, "An Act to Provide for Equal Treatment of Special Fuel Used for Heating Purposes" (S. P. 747) (L. D. 2050)

In Senate, Passed to Be Engrossed as amended by Committee Amendment "A" (S-311)

In House, Passed to Be Engrossed as amended by Committee Amendment "A" (S-311) as amended by House Amendment "A" (H-533) thereto in non-concurrence.

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

Mr. MOHOLLAND: Mr. Speaker, is the House in possession of L. D. 2050?

The SPEAKER: The Chair would answer in the affirmative having been held at the gentleman's request.

Whereupon, on motion of Mr. Moholland of Princeton, the House reconsidered its action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto.

On further motion of the same gentleman, the House reconsidered its action whereby Committee Amendment "A" (S-311) as amended by House Amendment "A" (H-533) thereto was adopted.

On further motion of the same gentleman, the House reconsidered its action whereby House Amendment "A" to Committee Amendment "A" was adopted.

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

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: After discussing this bill with House Chairman of the Taxation Committee, my concerns have been taken care of so I now urge you to vote with the unanimous committee report and pass this bill.

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

Mr. HIGGINS: Mr. Speaker, I move the indefinite postponement of House Amendment "A" to Committee Amendment "A."

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves the indefinite postponement of House Amendment "A" to Committee Amendment "A."

The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: This is an issue which we debated last Friday and there were some statements made that I am not sure actually affect the bill at hand here. I would just like to bring some information forth so we might reconsider our position and hopefully go along with the unanimous committee report.

Briefly, this bill permits an exemption from the Special Fuel Tax for the sales of special fuel use solely for heating purposes but not delivered directly into tank used for heating purposes. Special fuel delivered directly into one of these tanks to be used solely for heating purposes is already exempt.

This bill is necessary because many heating oil companies refusing to make deliveries of less than 100 gallons. There are many people in the state that cannot afford such a large delivery when it must be paid in cash in advance. This bill permits those persons to purchase fuel from a pump for heating purposes without being required to pay the \$.14 per gallon tax. The Committee Amendment provides that the exemption from the Special Fuel Tax shall apply only to purchases which do not exceed 110 gallons. The Committee Amendment also adds an emergency preamble in a clause to permit this exemption to become effective before the end of this year's heating season.

Additionally, this does not affect the treatment of fuel used for skidders, chainsaws or the like at all. And lastly, passage of this bill with the House Amendment will encourage the use of Number 2 heating fuel in lieu of diesel fuel. This heating fuel will then be available for at least 25 cents per gallon less than diesel fuel. Therefore, the vehicles that are using our roadways would not be paying towards the continued maintenance of these roads.

I hope you will support the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mrs. Ingraham.

Mrs. INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: Probably by now you are quite well aware that this is not a city bill. This bill, I feel, the amendment should be sustained because, as I said Friday, I consider this breakpoint of 110 gallons discriminatory. If a farmer is capable of transporting fuel oil for his home, I see no reason why he should be limited to 110 gallons. After all, it is the legislature that gave the exemption to home heating fuel, and I really don't understand why you have to establish the breakpoint of 110 gallons.

It is an economic move to do your own delivery if you have the capabilities, and I do feel that it is discriminatory to do the 110 breakpoint.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: I have a great deal of sympathy and support of this amendment except for the enforcement problems that it creates. What we would face is trucking companies like the small trucking company that I own, we have a 10,000 gallon diesel tank at our facilities in Gorham. Because of the economic benefits, that is heating fuel Number 2 can be used the same as diesel fuel can in our trucks, and because heating fuel Number 2 would be available for more than 25 cents less than diesel fuel because it would be exempt from this tax, you would be encouraging companies like my own to go out and purchase 10,000 gallons of Number 2 fuel in lieu of diesel fuel to use in our vehicles and thereby skirt the effect of our highway user fees—that is the gas tax—and I hope that be-

cause this is an unlimited amendment, that you will vote for the indefinite postponement of the amendment.

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

Mr. KELLEHER: Mr. Speaker, did I hear the gentleman from Portland correctly, that you own one of these companies that this is affecting?

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, has posed a question through the Chair to the gentleman from Portland, Mr. Higgins, who may answer if he so desires.

The Chair recognizes the gentleman from South Portland, Mr. Kane.

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I am assuprised as Mr. Kelleher is about Mr. Higgins' ownership in this company. The next thing that we are going to hear is that he owns a shingle factory in Aroostook County. Between the Speaker and Mr. Dillenback and Mr. Higgins, we have a lot of expertise in this House and it is nice to know that we can depend on it.

I would just like to make a couple of comments. I think we were roundly confused about this bill the other day. This bill is to make it easier to purchase fuel for home use. The current system is that now you buy it and then you apply for the refund. It is very cumbersome.

The reason for the 110 gallon line, and one has to draw the line somewhere, I think, the danger in this amendment is that we go from 110 gallons to infinity. One may be able to make a case that it should be 275 or it should be something else, but going to infinity, I think, is rather dangerous.

The other day after we debated this bill, I went with Representative Smith, who opposed me on the floor here, and we called up a couple of suppliers in Aroostook County, and according to the prices that were quoted to us, if you were going to get over a hundred gallons and you were going to move it, it would be cheaper to have it delivered than it would be to go pick it up yourself. Representative Smith sort of intimated that if he had made the phone call instead of me, the guy would have given him a different price, and that may be the case, but, in any event, I think once you get over a hundred gallons, that is really the problem, the people who cannot afford to buy a hundred gallons and have to go and apply for a refund and have it go to Augusta and sit on someone's desk for a month before anyone even looks at it.

The Bureau of Taxation says that the danger in this amendment is that it is just going to bring us full circle to where we were before the fuel supplies bill was passed and that you really don't know—I mean, the bureau can police this thing. Were it to pass with this ad infinitum sort of amendment on it, the bureau will be able to police it but the way they would have to do it is go through the mileage and fuel consumption records of all these trucking companies whether they are owned by legislators or otherwise, and it would be a very time-consuming, arduous, expensive task for them to do.

Let me make just two more points. One is, I mentioned just the other day that to my surprise the amendment was being presented by the gentlewoman from Houlton, Mrs. Ingraham, and I would like to apologize for that because everyone else on the committee knew it. I must have gone down the hall to use the senatorial john there for awhile, so I do apologize for that, Mrs. Ingraham.

But I think the thing to keep in mind above all else in this bill is that whatever we do end up with, I think this amendment is somewhat dangerous and I don't think there is anything really holy about 110; maybe we can strike a middle ground. The thing to keep in mind is that whatever we do do, we are going to need two-thirds in each house on this in order to provide some relief to those people right now who when they go to buy 50 or 60 gallons of fuel

have to pay the tax.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I did call oil companies when I got home because they have different prices and they usually ask, "who's calling?" Not that it should make any difference but it seems to, so then I get quoted a price. It happened that I needed oil last week and I did call and the price was \$1.039, the same as was quoted out of Houlton, and that was in my hometown.

But the concern I have with this is there is an operator in the Houlton area that says that they will sell to the persons bringing in their own containers. Well, there was a time when I felt that I could put a 275 gallon tank on a pickup and go pick that up and save a considerable amount of money, and I debated whether I should do that or not. Well, I called that gentleman the other day, or Mr. Kane called, and the price was much higher, so I believe they are playing games, they have in the past and I think they are continuing to do so because he couldn't offer the fuel oil at the price offered before.

I think the limit should be 275 or take it all off, because 110 isn't worth going after in my case, and if they get done playing games, I am sure we will be able to buy it for a much lesser amount.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of Representative Higgins of Portland that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 46 having voted in the negative, the motion did prevail.

Thereupon, Committee Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" in concurrence.

By unanimous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, 30 minutes after the House recessed and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

On motion of Representative Hickey of Augusta,

Recessed until four o'clock in the afternoon.

After Recess 4:00 p.m.

The House was called to order by the Speaker.

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

Papers from the Senate

Bill "An Act to Establish the Cost of the 1984 Spruce Budworm Suppression Project" (Emergency) (S. P. 683) (L. D. 1890)

(Committee on Reference of Bills had suggested reference to the Committee on Appropriations and Financial Affairs)

Came from the Senate, indefinitely postponed.

The Bill was indefinitely postponed in concurrence.

Unanimous Ought Not to Pass

Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act Concerning Brucellosis in Livestock" (Emergency) (S. P. 802) (L. D. 2150)

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

Unanimous Leave to Withdraw

Report of the Committee on Health and Institutional Services reporting "Leave to Withdraw" on Bill "An Act Relating to Allowances and Policies for Medical Equipment for Medicaid Recipients" (S. P. 730) (L. D. 2012)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Qualify Veterans who served in the Armed Services of Another Nation for Veterans' Tax Exemptions when They have Received Certificates of Eligibility from the United States Government" (S. P. 746) (L. D. 2049)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Revised the Forest Fire Suppression Tax Law" (S. P. 727) (L. D. 2000)

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 Health and Institutional Services on Bill "An Act to Ensure Medical Coverage of Residents in Cost Reimbursement Boarding Homes" (Emergency) (S. P. 723) (L. D. 1995) reporting "Ought to Pass" in New Draft (Emergency) (S. P. 843) (L. D. 2266)

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

Report was read and accepted, the New Draft given its first reading and assigned for its second reading Tuesday, March 20, 1984.

Ought to Pass in New Draft

Report of the Committee on Business Legislation on Bill "An Act to Clarify the Eligibility Provisions for Accident and Sickness or Health Insurance Program for State Employees" (S. P. 803) (L. D. 2151) reporting "Ought to Pass" in New Draft (S. P. 846) (L. D. 2292)

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

Report was read and accepted, the New Draft given its first reading and assigned for its second reading Tuesday, March 20, 1984.

Ought to Pass in New Draft/New Title

Report of the Committee on Health and Institutional Services on Bill "An Act to Clarify the Maine Emergency Medical Services Treatment Act of 1982 with Respect to Transportation of Nursing Home Residents" (S. P. 651) (L. D. 1841) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend Certain Definitions in the Maine Emergency Medical Services Treatment Act of 1982" (S. P. 845) (L. D. 2293).

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

Report was read and accepted, the New Draft given its first reading and assigned for its second reading Tuesday, March 20, 1984.

Non-Concurrent Matter

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$1,500,000 for the Design, Construction and Equipping of a Crime Lab and Morgue" (Emergency) (H. P. 1688) (L. D. 2238) which was referred to the Committee on Appropriations and Financial Affairs in the House on March 15, 1984.

Came from the Senate, indefinitely postponed in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$1,500,000 for Restoration and Preservation of Historic Structures" (H. P. 1689) (L. D. 2239) which was

referred to the Committee on Appropriations and Financial Affairs in the House on March 15, 1984.

Came from the Senate, indefinitely postponed in non-concurrence.

The House voted to recede and concur.

House Reports of Committees Unanimous Leave to Withdraw

Representative Drinkwater from the Committee on Judiciary on Bill "An Act to Include Handicapped Persons as a Protected Group under the Maine Human Rights Act" (H. P. 1549) (L. D. 2039) reporting "Leave to Withdraw".

Was 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 Transportation on Bill "An Act to Provide for Special Motor Vehicle License Plates in Observance of the Bicentennial of the Town of Shapleigh" (H. P. 1443) (L. D. 1888) reporting "Ought to Pass" in New Draft under New Title RESOLVE, to Provide for a Commemorative Bicentennial Motor Vehicle License Plate to Celebrate the Bicentennial of the Town of Shapleigh (H. P. 1736) (L. D. 2289)

Signed:

Senators:

DANTON of York
DIAMOND of Cumberland

Representatives:

MOHOLLAND of Princeton
CARROLL of Limerick
STROUT of Corinth
THERIAULT of Fort Kent
NADEAU of Lewiston

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

Signed:

Senator:

EMERSON of Penobscot

Representatives:

CAHILL of Woolwich
MACOMBER of South Portland
CALLAHAN of Mechanic Falls
McPHERSON of Eliot
REEVES of Pittston

Reports were read.

Representative Carroll of Limerick moved that the Majority "Ought to Pass" Report be accepted.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not support the Majority "Ought to Pass" Report on this legislation and please let me preface my remarks by saying my opposition to this bill has nothing to do with the Town of Shapleigh or certainly the Representative from there, Representative Ridley. I think they are very fortunate to have a fine representative like Representative Ridley, and I congratulate them on their bicentennial.

Now that that is all over, the reason I am opposing this legislation today is because the last session of this Legislature killed, by a vote of 92 to 46, a bill that would require a one-plate license plate system, and I feel that this is just one step toward acquiring a one-plate system that we 92 to 46 agreed that we didn't want in this Legislature last year.

Also, as far as I can find in the Legislative Records, the Legislature has yet to pass legislation that would recognize in this manner any town's bicentennial, and I am afraid that this would set a precedent that we wouldn't want to continue.

For example, in the next 15 years there will be 78 communities that will be celebrating their centennial or bicentennial celebration, and I assume that we will have 78 towns coming to the Legislature and asking for a special bicentennial plate.

Also, this legislation does not put a limit on the number of plates issued, so the Town of Shapleigh could, indeed, issue as many plates as they wanted and everyone in the State of Maine, if they chose, could have a Shapleigh bicentennial plate on the front of their car.

Therefore, I believe that this bill merits "ought not to pass."

The SPEAKER: The Chair recognizes the gentleman from Shapleigh, Mr. Ridley.

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I guess you all know who I am and where I am from, and I would like to defend myself a little bit here and hope that you will accept the "ought to pass" report.

Shapleigh is a small town in the Ossipee Valley region, about 1,300 population. We are going to celebrate our 200th anniversary and we are quite proud of our little town and we are trying to find all the ways we can to make this a success. We don't have any business district in the town, there is no manufacturing outfit, we are very limited on how we can raise funds to observe this, and this bicentennial plate was certainly one that we thought would generate some revenue.

As far as a precedent being set, it is true, there has not been a precedent set as far as a town doing this but there has been one as far as having one number plate on your car. The Daughters of the American Revolution had a bill in to observe their 200th anniversary, and also the state had one observing 1776, and we certainly think that any town that is fortunate enough to struggle along for 200 years certainly ought to have the opportunity to celebrate and get any advertisement or any funds to do this in any way that they can. In this day and age of fast living, I think it is nice if the towns would celebrate such things as this to commemorate their forefathers and teach the younger children of today some of the valuable lessons that can be taught from our great heritage and great history.

As far as the one number plate is concerned, I would like to point out that there are over 5,000 new car dealer plates issued in the State of Maine and they are only required to have one number plate, and there are over 5,000 used car dealer plates, so there are over 10,000 issued now that just have one plate.

The other thing that they complained about or objected to was the law enforcement agencies not being able to identify a car that they might be looking for whether it was used to rob a bank or that they were trying to get a message to, it would hinder them in locating this car. Well, I would like to point out that if someone were deathly sick in your family, we will say, and you were on your way to Lewiston and they wanted to locate you and you were driving a red Buick, it would be much easier for a police officer to watch for a red Buick with a Shapleigh bicentennial plate on the front of it than it would trying to read a number plate on it as it went by.

It seems too bad that for a few people that do go out and break the law and necessitate police officers out looking for them that it would prohibit a town such as mine from having these bicentennial plates to help celebrate their 200th anniversary.

As far as the number is concerned, we only have 1,300 people in the town and there are probably far less than a thousand vehicles in the town. They have a setup charge for making these plates and we if we limited it to 500 or something to that effect, it wouldn't even cover the setup charge for making them.

I really would hope for the little town of Shapleigh, out in the Ossipee Valley, that you would go along with this Majority "Ought to Pass" Report.

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

Mr. MACEachERN: Mr. Speaker, Ladies and Gentlemen of the House: I have never been to Shapleigh and probably never will get there,

but I do have a lot of sympathy for the people of a small town. I do, however, have a concern about this bill.

We have got some 450-odd towns in the State of Maine and I am concerned about the enforcement problem of number plates on the front. If this was a statewide celebration, I might give it a little more sympathy, but I can see 450-odd different number plates on cars running around the State of Maine and that would be a nightmare for the enforcement agencies and it sets a dangerous precedent to allow a town to issue its own license plates. These number plates that we issue are statewide, and if we start breaking it down, where does it stop?

I do have sympathy for a town trying to have a celebration, but I think we have got to be realistic and look at the big picture, and when we do that, I just think that this is not the right direction to go in, and I hope you will vote against it.

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

Mr. MACOMBER: Mr. Speaker, I would request a roll call vote.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is on the motion of Representative Carroll of Limerick that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 384

YEA—Ainsworth, Allen, Andrews, Armstrong, Beaulieu, Bost, Bott, Brodeur, Brown, D.N.; Carrier, Carroll, D.P.; Carroll, G.A.; Chonko, Clark, Conary, Cote, Cox, Crouse, Crowley, Daggett, Dexter, Diamond, Dudley, Erwin, Greenlaw, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jackson, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, Mahany, Manning, Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Paul, Perry, Pouliot, Racine, Reeves, J.W.; Richard, Ridley, Roberts, Rotondi, Soucy, Stevens, Tammamro, Theriault, Tuttle, Vose, The Speaker.

NAY—Anderson, Bell, Benoit, Bonney, Brown, A.K.; Cahill, Callahan, Connors, Cooper, Davis, Day, Dillenback, Drinkwater, Foster, Gauvreau, Higgins, L.M.; Holloway, Kiesman, Lebowitz, Livesay, MacBride, MacEachern, Macomber, Martin, H.C.; Masterman, Matthews, K.L.; Maybury, McCollister, McPherson, Murphy, T.W.; Parent, Perkins, Pines, Randall, Reeves, P.; Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Swazey, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Baker, Brannigan, Carter, Cashman, Connolly, Curtis, Ingraham, Martin, A.C.; Masterton, Rolde, Soule, Strout, Thompson.

83 having voted in the affirmative and 55 in the negative, with 13 being absent, the motion did prevail.

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

Consent Calendar

First Day

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

(S. P. 787) (L. D. 2113) Bill "An Act Concerning Maine Farm Wineries"—Committee on Legal Affairs reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-319)

On the request of Representative Cox of Brewer, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (S-319) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Consent Calendar Second Day

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

(H. P. 1623) (L. D. 2147) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that, Beginning with the Property Tax Year 1984, All Watercraft as Defined by the Legislature shall be Exempt from Taxation as Personal Property, Provided That Certain Watercraft as Defined by the Legislature shall be Subject to an Excise Tax to be Collected and Retained by the Municipalities. (C. "A" H-534)

(H. P. 1440) (L. D. 1885) Bill "An Act Concerning Application of Fuel Tax Laws" (C. "A" H-536)

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

Second Reader Tabled and Assigned

Bill "An Act to License Occupational Therapists" (S. P. 837) (L. D. 2243)

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

On motion of Representative Murray of Bangor, tabled pending passage to be engrossed and tomorrow assigned.

Passage to Be Engrossed

Bill "An Act Establishing Penalties for Violations of the Disconnection and Deposit Regulations of the Public Utilities Commission" (H. P. 1735) (L. D. 2288)

Bill "An Act Relating to the Issuance of Bonds by Sanitary Districts" (H. P. 1738) (L. D. 2290)

Bill "An Act Concerning the Disclosure of Licensing Records Regarding Adult and Child Care Programs" (H. P. 1740) (L. D. 2294)

Bill "An Act Concerning Registration Certificates for Long-term Trailers and Semitrailers" (H. P. 1725) (L. D. 2271)

Were reported by the Committee on Bills in the Second Reading, read the second time, the House Papers were Passed to be Engrossed and sent up for concurrence.

As Amended

Bill "An Act Relating to Scallop Fishing" (H. P. 1510) (L. D. 1985) (C. "A" H-526)

Bill "An Act Concerning Desecration and Vandalism of Religious and other Institutions" (H. P. 1579) (L. D. 2090) (C. "A" H-532)

Were reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

Passed to Be Enacted Emergency Measure

An Act Relating to Funding of Stoneham Schools for 1984-85. (S. P. 826) (L. D. 2212)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 134 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Charter of the Kingfield Water Company to Increase the Number of Trustees from 3 to 5. (H. P. 1595) (L. D. 2105)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds

vote of all the members elected to the House being necessary, a total was taken. 131 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend Calculation of Period of Imprisonment. (H. P. 1680) (L. D. 2216)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 13 against and accordingly the Bill was passed to be enacted, signed the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Amend Certain Rules of the Emergency Medical Services. (S. P. 709) (L. D. 1955) (S. "B" S-313 to C. "A" S-290)

An Act to Authorize Leasing of Certain State-owned Land. (H. P. 1598) (L. D. 2120)

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.

Bill "An Act to Clarify Disability Retirement Provisions" (H. P. 1751) (Presented by Representative Hickey of Augusta)

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

By unanimous consent, ordered sent forthwith to the Senate.

Bill "An Act to Amend the Charter of the Winthrop Water District" (Emergency) (H. P. 1753) (Presented by Representative Davis of Monmouth) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

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

By unanimous consent, ordered sent forthwith to the Senate.

Orders

On motion of Representative MacEachern of Lincoln, the following Joint Order: (H. P. 1756)

ORDERED, the Senate concurring, that the Joint Standing Committee on Fisheries and Wildlife report out bills relating to funding for the department.

Was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

An Act to Increase Legislative Oversight of the Fiscal Affairs of the Department of Inland Fisheries and Wildlife. (Emergency) (H. P. 1628) (L. D. 2143) (S. "A" S-296; S. "B" S-297)

Tabled—March 15, 1984 by Representative Mitchell of Vassalboro.

Pending—Reconsideration. (Returned by the Governor without his approval)

On motion of Representative Mitchell of Vassalboro, retabled pending reconsideration and tomorrow assigned.

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

Bill "An Act Concerning Menhaden Fishing in Casco Bay" (H. P. 928) (L. D. 1207) (C. "A" H-504)

Tabled—March 15, 1984 by Representative Higgins of Portland.

Pending—Passage to be Engrossed.

Representative Mitchell of Freeport offered House Amendment "C" and moved its adoption. House Amendment "C" (H-520) was read by the Clerk.

The SPEAKER: The Chair recognizes the gen-

tleman from Freeport, Mr. Mitchell.

Mr. MITCHELL: Mr. Speaker, Men and Women of the House: The Menhaden or Pogy Bill has been an extremely difficult bill for the Marine Resources Committee. The reason it has been so difficult is that there have been competing economic interests and both sides seem to have very legitimate concerns.

The committee has been hampered because there is little technical information about these fish. What the amendment before you will do is limit the catch to 50,000 pounds daily in the inner portion of Casco Bay and will direct for one year the Department of Marine Resources to report back to the Marine Resources Committee with technical information about the spawning behavior of these fish so that in the legislative session we can make a more informed decision on how to protect them or harvest them.

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

Mr. SCARPINO: Mr. Speaker, Men and Women of the House: While I respect the concerns of my good friend from Freeport, Mr. Mitchell, there are a couple of problems that I see with the amendment as he has proposed it.

First, the pogy season is almost upon us, it will be here in a month to six weeks and this fishery will start operating. For the department to mobilize itself and get a study going in the period of time left to it at this point I don't think is realistic. It is unfortunate that this bill has appeared this late if that is the situation that exists. But I don't really see how the Department of Marine Resources could in effect get a study, get guidelines written and get a study underway in order to be able to bring information back to us on this year.

Secondly, we do have some information from the Department of Marine Resources on the breeding of pogies—it is available, Jim, and I have no doubt that when you prepared your amendment you were not aware of this; I wasn't aware of it until after the amendment was prepared. In the March 1984 edition of Commercial Fishery News, under DMR news, a monthly newsletter from the Maine Department of Marine Resources, I quote: "Menhaden are quite obviously fish that do the best they can with what they have. This even extends to their reproductive habits, female menhaden frequently developing two sizes of eggs in their ovaries, a habit that usually indicates two spawnings each year. They are not predictable since their spawning is irregular and extends over a long period of time, from May to October, which is primarily the time when the primary pogy fishing takes place in this state. It is possible that these fish will spawn twice if food is abundant and only once if there isn't enough available prey."

It continues later on: "There is spawning in Maine waters and young of the Menhaden are occasionally found in marsh and estuarine areas from Penobscot Bay to Kittery."

So according to this, which is in effect a DMR publication, we do have the information that there is spawning in the estuarine areas, and accordingly I don't really feel, while I understand the gentleman from Freeport's concern, at this point that either the study is needed or the amendment and I would urge your opposition to it.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment was put forward for many reasons, and I think Representative Mitchell explained most of them. This is probably the hottest contested bill that I have seen in three or four years here. Just recently on your desks you got a petition that was signed and that was written to the Governor asking him to veto this bill even before we discussed it, and they had 56 signatures. And I am sitting here with another petition with 778 people who have signed it on the other side of

the fence hoping that we will get this through.

This amendment, the reason we want to repeal it on March 1 will come up later in our discussion, the reason we are doing this is because we can't seem to get the department to put a regulation especially on the New Meadows River, and this amendment will do just that and it will give the Department of Environmental Protection and the Department of Marine Resources, with their scientists, to go in and take a good look at the New Meadows River and the rest of the areas that we are going to legislate against for this period of one year.

The SPEAKER: The pending question is on the adoption of House Amendment "C" (H-520). All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

90 having voted in the affirmative and 37 having voted in the negative, the motion did prevail.

Representative Manning of Portland offered House Amendment "D" and moved its adoption.

House Amendment "D" (H-522) was read by the Clerk.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Yes, this bill has been around for a long time, it has been around for two years, and I would like to explain why I am moving this amendment.

This amendment will replace the actual committee report. The amendment basically is the rules and regulations that were in effect for the last two years and I am trying to put the rules and regulations into statute.

It also is going to deal with a segment of the New Meadows River, the upper part of it where people are concerned about whether or not there is spawning up there, and I am taking out purse seining for fishing pogies in the New Meadows River from a westerly point of Foster's Point to the northern point of Indian Point.

Let me explain why these rules and regulations were in effect. About two years ago, the fishermen down in that area came to Spencer Apollonio, the Commissioner of Marine Resources, and asked him if they could something about the larger purse seine boats going into the area affected.

Now, we are talking about the New Meadows River, but we are also talking about an area just opposite, if anybody is familiar with Casco Bay, which is Chebeague Island. It is one thing talking about the New Meadows River, it is another thing talking about Chebeague Island. Chebeague Island is a lot closer to the ports of Portland than New Meadows River, and I just want to give you an idea of how wide this shutoff is going to be and what these rules and regulations will do is shut off part of this area but won't shut off the whole area.

The reason why this bill is in is because there are basically two fishermen out there who started this thing. One is a large purse seine fisherman and another one is a smaller one and they got in a fight over who should be taking the pogies and who shouldn't be taking the pogies, so a group of them went to Spencer Apollonio and asked to have rules and regulations put into effect concerning pogy fishing in the eastern part of Casco Bay. Spencer Apollonio held a meeting, he heard their concerns, the meeting went for about three hours. At the end of three hours, Spencer Apollonio said to them, okay, I want to hear a proposal. One of the proposals was to shut it off completely and the other proposal, naturally, was to open it completely.

Now, Spencer Apollonio is a person who has to deal with the whole fishing industry in the State of Maine as a whole, not a little fish pond down in the eastern part of Casco Bay or a fish pond up in Washington County which a lot of you have heard, he has to deal with the whole

fishing industry in the State of Maine. Spencer Apollonio drew a line that he felt was to the benefit of the complete fishing industry and not just a segment of the industry that really wanted to have their own little fish pond.

If this bill goes into effect, this bill will be the detriment of an industry in Portland and an industry that is statewide, it is called a fishing industry.

This bill actually deals with fishing in the whole state of Maine. You are going to hear opponents getting up later on saying it doesn't, but it does.

Ladies and gentlemen, we have one fish processing plant in the State of Maine right now and that is in Rockland, and the other one that was in effect was the plant in South Portland that most of the southern legislators in this state have probably been in the Portland area and have smelled and probably are saying, well, why did they have that. That processing plant utilized the pogies in southern Maine that they got out of the eastern part of the Casco Bay for a fish meal process that was used in the chicken industry. That plant is closed but a new plant on the Portland waterfront is being proposed. This plant has got to be environmentally sound. The City of Portland, City Council, has put in new zoning laws saying that they cannot emit gross smells which if you have smelled Pine State By-Products you realize that it was a gross smell, and therefore it can only be environmentally sound in that aspect.

If we don't have a by-products plant, what in essence is going to happen is, the fishing industry, which has fought hard to come back after many years and has fought to get a fishing plant in the southern part of the State of Maine, will not be able to have a plant close by for their by-products.

The byproducts, for instance, in one haddock you might take 40 percent of the haddock and that might be sold retail. The rest, the 60 percent, has to be used in a byproduct situation and that byproducts is utilized in these places and it is ground up, burned up, boiled up, whatever it does, and they are used for chicken meal which will be addressed later in the argument by the gentlelady from Rockland, Mrs. Melendy.

If this plant cannot get the amount of pogies in the eastern part of Casco Bay, it is unprofitable for that plant to be built. If that plant is not built, you can land all the fish in the world in the southern part of the State of Maine or even on the coast of Maine, but if you don't have a byproducts plant to utilize the raw material, we are going to be trucking this material over land to Gloucester, Massachusetts. That is an additional cost to the fishermen, to the consumers of the State of Maine. I don't think that is what we tried to do back a few years ago when not this legislature but previous legislatures had voted a bond issue for the State of Maine on the fishing industry. That bond issue permitted the State of Maine to pump \$6 million into the fishing pier in the City of Portland. The federal government has already promised or has already given \$6 million also, and the other day there was great hope that the EDA was going to pump in another \$1.3 million. The City of Portland, on its own, has contributed \$2 million, and with additional cost of private investment, this project could be a \$22 to \$23 million project that is going to benefit not the Portland fishing fleet, the whole State of Maine, because if you are in Rockland you can bring your fish to that Portland plant. It has an auction house and they can get the Boston base price of fish. But if they get the Boston base price of fish and there is no place to process that fish after it has been cut up and it has to be trucked down to Gloucester, we are right back where we started again.

What this bill will do will really put a crunch on that Portland pier, and I don't think that we as legislators want to see an industry that would pump this much money in, \$22 million,

go down the drain.

Many will say that it won't go down the drain. Sure, they will have a fishing plant down there that they can take and land their fish, but to compete with the Boston base market you need all of these variables, and without this fish processing plant, you are not going to get it.

The bottom line is, if you shut the menhaden fish off of the eastern coast of Casco, the profitability of that plant working and not working is gone. Yes, that plant might be able to use raw material from Portland and up and down the coast, but the profitability is gone, and if you are going to go into business and one of the things that you are going to be dealing with is pogies and you are not going to be able to get the amount that you need, you certainly are not going to build that plant.

I hope you will go along with House Amendment "D."

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, I move the indefinite postponement of this amendment.

The SPEAKER: The gentleman from Stockton Springs, Mr. Crowley, Moves that House Amendment "D" be indefinitely postponed.

The gentleman may proceed.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: This is not a Portland bill. There is no fish pier in Portland at the present time and there will be one, we hope, in the near future, but by this bill it is sunsetted March 1, 1985, and they couldn't even start to go after their funding by this time. So I don't think this bill will stop the Portland fish pier from developing, as it probably will.

One of the members of the Marine Resources Department in testifying on this bill, even though they were in favor of it, said that an industry based on menhaden is doomed to failure, and by that they meant if you build an industry around this one fish, that it is such a questionable fish, you can't be successful because there are some years when the pogies decide not to come up to Maine.

I think the good Lord, around March of the year, takes about a billion of these pogies and throws them out there into the Atlantic with a big smile and watches us chase them.

The regulations that Representative Manning spoke about in 1982 and 1983 are the bone of contention in this bill. We have been holding this bill for two years and we have waited for the regulations to run out in 1983 in December, and at that time we were supposed to get a report on menhaden in the regulated area. Well, the regulated area did not include the New Meadows River and the report came back, it was a verbal report, and the commissioner said there is no need for a report because there was a scarcity of menhaden in that whole area and there was no problem one way or the other. There was no catching of menhaden in the regulated area.

There is a lot more than menhaden going on in the New Meadows River. There are clams and oysters and lobsters and groundfish of all kinds, stripers, and we want to take a hard, we want DEP and Marine Resources' scientists to go down there and take a hard look at this entire river, the New Meadows River, and this bill would cut off a great part of what we want to study with this one year bill.

The SPEAKER: The Chair recognizes the gentlewoman from Rockland, Mrs. Melendy.

Mrs. MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I rise at this time to speak for the amendment presented by Representative Manning which addresses the damage that L. D. 1207 would cause if it were passed without that amendment. There are many reasons that the legislation would be detrimental to the people of Maine.

In 1983, menhaden, a bottom fish that was the largest volume fish harvested in Maine waters, larger by over 10 million pounds than even the Maine herring fishery, it alone represents

from 30 to 50 percent of the total fish landed in the State of Maine on a yearly basis.

This fish has many uses that are directly related to manufacturing, distribution and employment opportunities in the state.

The Seapro processing plant in Rockland is the only plant in the State of Maine that processes fish byproducts. The prime market for menhaden that this plant needs has always been for the manufacturer of fish meal and fish oil, a processing activity requiring a high volume of raw materials produced and transported by large vessels.

If we pass this law, it would affect the whole fishing industry because fishing by the larger boats in this Casco Bay area is necessary to keep this fish plant open. The plant not only processes the menhaden but also fish waste from the canning factories.

As it stands now, the fish from the larger vessels are first used to supply bait for lobster fishermen when they are unable to obtain their choice bait. The rest is sold to processing plants where it is processed for its oil that is used in paint products, used in tanneries and the better grade of the oil is even used in margarine.

The fish meal which it produces is primarily used for poultry feed in Thorndike, Maine.

The oils must be shipped out in 20,000 gallon tank cars on the railroad or in 60,000 gallon tank trailer trucks. The trucking industry that brings the waste in from Portland and Eastport should also be mentioned.

The reason I mention the railroad being affected is that presently before the Committee on Transportation is a bill to save the railroad line between Brunswick and Rockland. Every railroad car that goes down the track is important to the railroad industry. So you see, not only is fishing affected but also poultry, railroad, trucking, and not to mention the factory workers in the processing plant.

It should be noted that this bill does not call for the end of menhaden fishing but would effectively limit the size of the fishing vessels that harvest these fish, and Representative Manning's amendment addresses this. This limitation would effectively reduce the amount of fish that a waste processing plant could receive at one time. The plant in Rockland can process 15 tons per hour. A 50,000 pound load would translate to one and one half hours of work. An industry of this kind needs to operate at full capacity in order to realize its full potential.

Another factor that needs to be brought to light is that smaller boat owners would be limited in cruising range and thus would be forced to make more trips, creating higher costs to these smaller fishermen.

For these many reasons, I ask you to vote for Representative Manning's amendment.

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

Mr. SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: I feel there is a couple of points in Representative Melendy's testimony that should be clarified.

Firstly, she stated that pogies are the largest volume fish harvested in this state, and on that she is absolutely right. While it is the largest volume fish, it is also the lowest income producing fish. You are talking about a fish that sells for between \$30 and \$40 a ton.

The bill itself would not limit the size of the vessels that would be going into Casco Bay, it would be limiting in certain areas of Casco Bay the amount of fish that could be taken out in one load. Those big boats could go up in there with the little boats. The only difference is, they could only take out 50,000 pounds in one shot instead of 600,000 pounds in one shot.

To listen to the testimony on this bill you would think that Casco Bay was the only place in the State of Maine where there was pogies. We are talking about the eastern edges of Casco Bay. To get into Casco Bay they have got to come through the western edges of it. We are talking about an area that is approximately 8

to 10 percent of the fishable bottom in Casco Bay. The fish have to get in, the fish have to get out. The larger boats are specifically designed to fish in deep waters. They have seines that are 15 to 20 fathoms deep, 90 to 120 feet deep. The waters in the area that we are talking about at high water range from 15 to 20 feet deep. There is absolutely no need and no reason to set a net that size with that depth in that amount of water.

We have heard mentioned the bait fishery. Well, I may get in trouble with some of my fishermen friends for saying this, but the way that the fish meal boats sell bait, they call it shack money, and for those of you who don't know what shack money is, that is when somebody comes along and says, you got a couple of tubs of bait and he says, sure. He hands them the bait and you hand him the cash and the bait goes in the lobster boat and the cash goes in the fish meal boat's pocket. It is not reported for taxes, it is not reported on income, it is shack money, it is the cream, and that is what is going on with this.

Pogies are also actively fished by the big boats in the Sheepscot River, they are fished in Muscongus Bay, they are fished out around Monhegan Island, they are fished in Penobscot Bay. This year if we had laws in Washington County that would have allowed purse seining in Washington County, they would have been fished in Washington County too because they were there in large quantities.

Right now, admittedly, the greatest amount of pogies delivered come out of that small area. It is not because they are not available in other areas, it is because that area is the place where the fish are the most vulnerable to the largest and most efficient harvesting methods that we have. The fish don't have a chance.

What we are talking about with this bill is an attempt to preserve a resource to say when you get into a prime feeding area that is shoal water with limited access and limited exit and you have got fish in there at high densities feeding and spawning, you have to limit the amount that can be taken out of that area so five years down the road we will still have those fish.

We are talking here like this is the first place this has ever happened in. Right now in New York and New Jersey and Rhode Island there are existing regulations doing statewide exactly what this bill is attempting to do in order to preserve their resource.

Seacoast Products, Inc., one of the largest fishmeal companies operating on the east coast, Mr. Richards of Seacoast Products, who is their public relations man, appeared this year, this winter, in Connecticut testifying on menhaden and he requested—now this is one of the largest harvesters who has refrigerator boats that will carry two million pounds that has operated in the State of Maine in the past and is currently planning to operate in the State of Maine in 1985—he has requested that Connecticut put those same regulations in as New York, New Jersey and Rhode Island have in order to protect the resource. He is asking them to close the fish off to him in their vulnerable areas because he realizes that the long-term good of the fishery for long-term employment and for long-term maintenance of the resource, this kind of legislation is necessary.

All this bill is asking you to do is for one year allow our department to look at it so hopefully in the 112th we can come up with the same kind of legislation that will protect the long-term resource.

We can take it two ways. There's continual fighting here over wood measurements. To put it in simple terms, there are a lot of people that don't understand fishery terms; we have got a choice. We have got a choice of selectively harvesting the resource or we have got a choice of clearcutting it. This bill will let us selectively harvest, it will let us replant because we will have spawning fish and we will hopefully have

a product for years and years and years.

What this amendment does is let us clear cut. I don't think I have to explain to anyone what clear cutting does to a resource. There will be a lot of money made for a short period of time and there won't be anything made for years and years and years afterwards.

I would urge you to support the indefinite postponement of this amendment.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clear up a few things that have been said earlier in the debate. My good friend and colleague on my committee, Representative Crowley, indicated that the fishing pier wasn't built. Well, I hate to tell the treasurer of the State of Maine because I am sure the state has already pumped \$6 million, and from my indication there is about \$13.3 million already on that fishing pier. The fishing pier has been built, it was dedicated last year. Senator Cohen, Representative McKernan were there two weeks ago trying to encourage EDA to give the City of Portland \$1.3 million more to complete that pier, so that pier is in effect right now. The ice building has been working for over a year now, so that pier has been going.

Representative Scarpino has talked about trash fishing, he is concerned about trash fishing. This trash fish has been around for at least 15 or 20 years that I know of because I have been smelling Pine State Byproducts for at least 15 or 20 years. And if you don't believe me, ask Representative Macomber or Representative Kane because they have been smelling it over there in South Portland. The only way they kept on going was with pogies. Where did they get those pogies? A good part of their pogies came right from the eastern part of Casco Bay.

These pogies have been around for a long time. There are arguments on both sides saying where the spawning is. Representative Scarpino is saying that is a spawning area and I am saying the spawning area is off North Carolina. You can hear two sides of the story on that.

They talked about shack money. Let's bring into the discussion here whether or not it is illegal or legal and there is no money being paid. Anybody who has been on the Marine Resources Committee knows that most of the money in the industry—there is a lot of money passed without any receipts. There is a clam bill that is floating around here that many of my committee members wanted to put an amendment on that said every time it passed from hand to hand, the clams passed from one hand to another, there would be a receipt so there would be money put on it, but there is no amendment on it saying that. So let's not bring in the fact that somebody is passing money left and right.

We talk about bait fishing. I have got a petition here with 50 signatures, they are license holders, Harpswell holders in Harpswell area, they need this bill—they don't need this bill because it is going to cut into their bait fishing.

I know this is a hard bill to understand because you wonder who is telling the truth. But let me just say that if the eastern coast of Casco Bay is cut off, that \$22 million project that we as legislators in the past have voted for, the federal government has voted for, the City of Portland has voted for, and between five and eight million dollars of private monies are being pumped into that, will be in serious jeopardy.

I would hope that you would really look at this before you take the final vote and not vote for the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: Just a couple of words of clarification. I hope I said fish plant because I can remember voting for the fish pier and so

forth in Portland. And when we speak of Casco Bay, we are not talking about Casco Bay, we are talking about New Meadows River and all those waters between Harpswell, Bailey's Island, Orr's Island, Phippsburg, West Bath, this is the area we are talking about. We are not talking about out there in the bay, we are talking about inside where we are trying to protect the inland fishery.

Representative Manning of Portland requested a roll call vote on the motion to indefinitely postpone House Amendment "D."

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is on the motion of Representative Crowley of Stockton Springs that House Amendment "D" (H-522) be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 385

YEA—Anderson, Armstrong, Bell, Bonney, Bost, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carroll, G.A.; Carter, Chonko, Clark, Conary, Connors, Cote, Cox, Crouse, Crowley, Daggett, Davis, Day, Dexter, Diamond, Dillenback, Drinkwater, Dudley, Foster, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hobbins, Holloway, Jackson, Jacques, Jalbert, Kelly, Kiesman, Lisnik, Livesay, Locke, MacBride, MacEachern, Mahany, Martin, H.C.; Masterman, Matthews, K.L.; Matthews, Z.E.; Maybury, McCollister, McGowan, McHenry, McPherson, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, E.M.; Murphy, T.W.; Murray, Paradis, E.J.; Parent, Paul, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Reeves, P.; Richard, Robinson, Roderick, Rolde, Salisbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stover, Swazey, Telow, Theriault, Walker, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Allen, Andrews, Beaulieu, Benoit, Carrier, Carroll, D.P.; Connolly, Cooper, Erwin, Greenlaw, Higgins, H.C.; Higgins, L.M.; Joseph, Joyce, Kane, Kelleher, Ketover, Kilcoyne, LaPlante, Lehouc, Macomber, Manning, Mayo, McSweeney, Melendy, Mills, Moholland, Nadeau, Nelson, Norton, Paradis, P.E.; Roberts, Rotondi, Soule, Stevens, Stevenson, Tammaro, Tuttle, Webster.

ABSENT—Baker, Brannigan, Cashman, Curtis, Hickey, Ingraham, Lebowitz, Martin, A.C.; Masterton, Ridley, Strout, Thompson, Vose, The Speaker.

97 having voted in the affirmative and 40 in the negative, with 14 being absent, the motion did prevail.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "C" and sent up for concurrence.

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

An Act Amending the Laws Relating to the Finance Authority of Maine Concerning Eligibility of Small Business for Financing. (H. P. 1661) (L. D. 2194)

Tabled—March 16, 1984, by Representative Gwadosky of Fairfield.

Pending—Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and tomorrow assigned.

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

Bill "An Act to Amend the Liquor Laws to Permit the Sale of Beer and Wine at Outdoor Stadiums" (Emergency) (S. P. 752) (L. D. 2055)

In House, failed of passage to be enacted on March 5, 1984.

In Senate, bill and accompanying papers re-committed to the Committee on Legal Affairs in non-concurrence.

Tabled—March 16, 1984 by Representative

Kelleher of Bangor.

Pending—Motion of same gentleman to Recede and Concur.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not vote to recede and concur but would instead defeat this motion so that we could go to the motion to adhere.

I imagine that by now most people have already made up their minds how they want to vote on this, but I would just point out one or two things.

This bill was reported out of the Committee to the floor of the House on Wednesday, February 15, and here we are with only 13 legislative days left and now the motion before us is to recommit the bill to the committee. I can assure the House that if the bill is recommitted to the committee, it would come out again on a divided report and you will again have to listen to recitations of Casey at the Bat and long debates in the closing hours or days of this House, and if we put this bill to rest right now, there will be one less session of debate just as we just went through.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I hate to disagree with the chairman of my committee, but I know that there are many amendments to go on this bill.

When we took this bill out of committee, we had three important facts on it. One of the facts was there had to be a stadium of 5,000 people, that if any beer was served, it would be served in an area behind the grandstand and that no beer would be served when we had any students there for student activities.

I am afraid with some of the amendments we had, we are going to end up with a restaurant, we are going to end up with alcohol or liquor, and I think perhaps it is better to send this bill back to committee, because if we put it back to committee, I am sure maybe some of the same amendments are going to come up, but at least we can reiterate what we stood for.

I would have to vote against the bill if they come out with the amendments that are on it now. I do not want to deny the ballpark having beer but I want it to be run like the Civic Center is run and not in the grandstands. I do not want to see beer and wine in the grandstands, I think it should be behind the grandstands in a designated area. With so many amendments, I think we ought to send it back to committee.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. McSweeney.

Mr. MCSWEENEY: Mr. Speaker and Members of the House: This bill had so many amendments on it, like Representative Dillenback said, I think we should bring it back to committee and we could do a much better job on it.

Also, that ballpark is just asking for equality of treatment, such as the civic centers, the tennis clubs, the golf clubs have in this state, we just want equality.

Not only that, we have made such a big thing out of it, the State of Maine should be proud that they are getting a Triple A baseball team into this state. I don't think you realize how important it is to the state of Maine. So I think we should do a better job on this bill than we have with all these amendments. That is why we should recede and concur.

The SPEAKER: The Chair will order a vote. The pending question is on the motion to recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

100 having voted in the affirmative and 25 having voted in the negative, the motion did prevail.

The Chair laid before the House the fifth

tabled and today assigned matter:

An Act to Provide for Certain License Requirements for School Bus Drivers. (S. P. 704) (L. D. 1951)

Tabled—March 16, 1984 by Representative Richard of Madison.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Richard.

Mr. RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: The reason I asked to have this bill tabled, there are a number of the smaller communities and SAD's that had a problem with the waiting time necessary in order to take the bus driver's exam. I made it a point to talk with the Secretary of State; he assured me that he could set up an emergency procedure to relieve this problem, and I would for the Record like to read a portion of his letter into the Record.

"I realize that unforeseen personnel problems such as sickness, injury or lack of skilled drivers might cause hardship to some school districts, particularly in the rural areas, and that on rare occasions genuine emergencies might exist. Therefore, if the school authorities will certify in writing that an emergency exists, the Motor Vehicle Division will provide an examiner within two working days."

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

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

Mr. HIGGINS: Mr. Speaker and Members of the House: I hesitated to call you but the gentleman that brought this whole issue up is not in his seat, and while I don't maybe happen to share his concerns, the gentleman from Corinth, Mr. Strout, is not in his seat and I hate to see him lose the opportunity to debate the issue if he wants to. Therefore, perhaps my counterpart might move to table.

Thereupon, on motion of Representative Mitchell of Vassalboro, tabled pending passage to be enacted and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Clarify the Disciplinary Procedure of the Nurse Practice Laws" (S. P. 839) (L. D. 2263) which was tabled and later today assigned pending reference.

Thereupon, the Bill was referred to the Committee on Business Legislation in concurrence.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT—Majority (9) "Ought Not to Pass"; Minority (2) "Ought to Pass"—Committee on Judiciary on Resolve to Reimburse David James McDaniel for Damages Suffered as a Result of Wrongful Imprisonment (H. P. 761) (L. D. 992) which was tabled and later today assigned pending acceptance of either Report.

On motion of Representative Hobbins of Saco, retabled pending acceptance of either Report and specially assigned for Thursday, March 22.

HOUSE DIVIDED REPORT—Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-525)—Minority (5) "Ought Not to Pass"—Committee on Labor on Bill "An Act Relating to Occupational Safety and Health of Agricultural Workers" (H. P. 1474) (L. D. 1935) which was tabled and later today assigned pending the motion of Representative Beaulieu of Portland to accept the Majority "Ought to Pass" Report.

On motion of Representative Beaulieu of Portland, the Bill and all its accompanying papers were recommitted to the Committee on Labor and sent up for concurrence.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT—Majority (11) "Ought Not to Pass"—Minority (2) "Ought to Pass"—Committee on Judiciary on Bill "An Act to Permit Reasonable Visitation Rights for Grandparents when a Parent is Deceased" (H. P. 1548) (L. D. 2038) which was tabled and later today assigned pending acceptance of either Report.

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

Mr. HOBBS: Mr. Speaker, I move acceptance of the Minority "Ought to Pass" Report.

The SPEAKER: The gentleman from Saco, Mr. Hobbins, moves that the Minority "Ought to Pass" Report be accepted.

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

Mrs. KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I understand the balance of the committee and the way that the votes came out, but what I am concerned with is the balance of the healthy family.

This bill came to me and the cosponsors, from some very concerned grandparents who live on Bailey's Island. They lost their son due to an accident and now they are not allowed to visit or talk to their natural grandchildren.

There are multiple tragedies here—first the loss of a son and then the tragedy of the denial to see their grandchildren. To me, the greatest loss will be the family union.

You know, there is always something special in a grandparent-grandchild relationship. They love to spoil them and give them a lot of extra love they need, especially needed when they have lost a parent.

This concern has spread across the nation by grandparents who have united to lobby their right to see their natural grandchildren. There are 25 states that have put this into law, Rhode Island is one, but they have a family court system, we do not. I wish we had a family court or a domestic court to take care of the problem, but we don't and they tell me it costs too much to have one. But does that mean just because we can't afford a family court, that these people can't use the current system and be denied the right to see and to love each other—I say no.

If this legislation says no, the problems are not going to go away. With the growing divorce rate and one out of two marriages getting divorced, and when more people are driving and the chances are higher of getting killed in an automobile accident, and because we have become a mobile society and more accidents occur, more children are left with one parent to bring them up and this may develop a problem of a stepparent whom the child may hate, and at that point they may want their grandparents more than ever to love him or her.

Why not let an independent third party get involved in this case. As you see, these problems are not going to disappear; we must address them.

There are several questions that came up and one of them is—well, we will have to subpoena the parent to go to court, but maybe they won't have to go to court.

Some of the cases, the remaining parent becomes paranoid and only wants their immediate family, not their inlaws because they are scared, afraid, and they want the security of their own family, an example is—one parent made up a story to tell her children so they would stop asking about their grandparents, that he had died, but he hadn't, he lived within driving distance.

Another question was, why put the children through an adversarial court? I am not a lawyer or a judge, but maybe the judiciary system needs to be changed. Right now, we have to use the system we have.

In the divorce court when children are involved, the children go with their parents and they decide which parent they are going to go with. The children certainly can be confused when they are being pulled between both di-

rections and emotionally upset. Again, when a child loses a parent, the same thing happens, and that is when a grandparent's love is very important.

We are living in a society that is changing so rapidly we must address those changes. This bill also addressed the best interest of the child first and foremost. I submit to you that this bill is very needed. I appeal to all of you who are grandparents and parents and hope that this tragedy never happens to you or me, but if it does, I hope we pass this vehicle so if we need it, it is there.

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

Mr. CARRIER: Mr. Speaker and Members of the House: this, no doubt, to some people is a very important bill. It is important to me in the fact that this bill wrongly, I suppose, gives somebody the right to do something, the right to visit their grandchildren which, in essence, is not totally wrong because I am a grandparent myself.

As most of you are familiar with the processes of grandchildren, especially on death, and this is what the bill says, if my child dies and he has children, I could petition the court to visit these people. Well, as you know, whether your child is dead or not, there are many families where married people don't get along with their inlaws, which happens to be the grandparents of their children, so actually upon their death, I would think that the bad situation that exists when the parents are living, that exists between them and their inlaws, that upon their death this could create a much stronger burden upon their daughter-in-law or their son-in-law to actually let them visit the kids, especially if the people get married again.

You talk about breakup of marriages, as you know there is probably nothing worse than to stick your nose into your kid's business or into your inlaw's business or otherwise, and the grandparents, for some reason or other, we find ourselves with much more leisure time than we did when we were younger and we are all full of advice and wisdom to give our kids and I think the situation is that upon the death of our child we look to the daughter-in-law or the son-in-law to give us the courtesy to at least visit the grandchildren.

I do realize that it is their kid. If you really want to get technical, it is not their kid and it is not the grandparents' kid either, the kids belong to the state for a long period of time, and if you don't believe it, just let certain situations happen and you will see where the kids go. They are not going to go with their parents and they are not going to go with the grandparents either.

I feel that this bill is not the proper way to go. As it is, I think if you want to see your grandchildren and they want to see you and their parents also agree, I don't think they should be forced to let you see your grandchildren. I will only say from experience that when they get about seven, eight or nine years old, they know if they want to see you or not as a grandparent, and if they do, they can come and see you. If they don't, well maybe it is your past behavior or something, I don't know.

I do suggest to you that this is not a good bill. I don't think that we should give grandparents rights with their son's kids or their daughter's kids, and I ask for a division.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I am not sure that at this time of the evening anyone cares why Representative Hobbins and I voted the way we did, but if you can bear with me for just a couple minutes, I would like to explain this unbalanced report.

First of all, all the bill does is allow grandparents to petition the court if your child—if you are grandparents and your child died and there were grandchildren, and for whatever reason you weren't allowed to see your grand-

children by the remaining spouse, the living spouse, then you could petition the court for visitation rights. It doesn't say the court has to give them to you; it simply says that you can petition the court.

Another reason why I decided to sign this out "ought to pass" is because last year we passed a law that has to do with visitation rights of children of parents who have been divorced, and part of this law says that the court may order reasonable rights of visitation to a parent of any of the minor children to any third person or both. It just seems a little inconsistent to me that if parents are divorced and you are going to allow anyone to come in and petition the court for visitation rights, that you ought to allow grandparents the same options, and it would seem to me that it would be a lot more important to those people if they have already lost their own child and are now going to lose their grandchildren also.

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

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I have every intention of voting for this bill today and I am going to tell you why. I have different reasons than have been stated.

For the past five years I have had one little grandmother in my district that calls me every year and talks about this particular bill and tells me about the things that she sees and the concerns she has, and she has asked me repeatedly if there isn't something we can do, and I was very pleased to see that this bill was here this session.

But I have to go back to one of the main reasons why. When I think back to when I was growing up, my mom and dad weren't divorced, my mom and dad were both living, but they were both working. As we were growing up, my grandparents, fortunately, lived close by and probably had as much to do to influence the way we grew up as my parents did, and that is not being discourteous to my parents, it is just the way the situation was. My father has said many times that nobody in my family, that is my three brothers and my sister, have ever done anything to embarrass or humiliate them or make them feel ashamed of their children. I relate a lot of that back to the kind of people that my grandparents were, my two grandfathers especially, who I spent an awful lot of time with.

If you think of what happens to a young person when they lose one of their parents, what they are going through at school or as they are growing up, there is a big void in their life, there is a big thing missing. In Waterville I have had the opportunity to spend some time with some of these children who haven't had grandparents or anybody else, it may be just taking a kid to a basketball game or a soccer game or a hockey game, but there is definitely something missing there.

Grandparents, if only for a short period of time, if they can only visit every other week or just one day a week or every other weekend, they can play such an important role in these young people's lives that it may just make the difference having somebody feel that they wanted a little more than a single parent can give them and maybe put them down the right road so that we don't have to be back here ten years from now wondering what we are going to do with the child that has now become a teenager that has problems that aren't his fault and how do we deal with him other than just putting him into a jail somewhere or letting police officers beat the dickens out of him every Saturday night because the kid just doesn't know the right way to go.

I think it is very important that guidance be there. I think this is a well-written bill, and I don't usually disagree with my good friend from Westbrook, Mr. Carrier, but I think it is very well intended and I think we can really do something to have a positive influence on these

young people who sometimes have no real say in what happens to them.

I hope that you will go along with the gentlewoman from South Portland, Ms. Benoit, and send this bill on its way.

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

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I was just listening to my good friend, Representative Jacques, talk and I think he is right on target.

My father and mother were divorced when I was seven years old, but I had a very good relationship with my grandparents and I would have felt awfully bad if my mother had said that I couldn't see them for whatever reason. I think that they have a right to their grandchildren. I have five granddaughters, and I would be heartbroken if I thought that anywhere down the line somebody would say to me, hey, you can't see them. I agree with Representative Jacques, he is right on line, and I think we ought to support this and send it on its way.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Ainsworth.

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I have got a few years on me now but I can remember back as a boy eight years old when I got a chance to meet my grandmothers for the first time by going to Europe. At that time what a thrill it was for me because my grandfathers, both of them, were dead. I got a chance to meet my grandmothers for that one time, and one of my grandmothers came over to this country a couple years later, and what a thrill.

I would hate to think that children would be deprived of having the experience of having their grandmothers and grandfathers around to help bring them up and guide them a little and give them that extra love. Because of my situation, that I didn't have all my grandparents and saw them so very little, I have tried to give a little extra to my grandchildren, so I hope today you will go along with Representative Benoit.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I don't know anything about this bill, I never saw either one of my grandfathers, but I will say this — there are five lawyers on this Judiciary Committee who voted against this and only one lawyer voted for it. There must be a reason for this and I am going to support their position.

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

Mr. SOULE: Mr. Speaker, Ladies and Gentlemen of the House: This is a very emotional issue, obviously, and I did want to explain at least my position on the bill.

The Representative from South Portland, Ms. Benoit, has already indicated that in the last session we considered this issue very thoroughly and came up with a solution to the problem by providing a statutory change which allows grandparents to obtain visitation rights in cases where there is a divorce. There is a reason for that distinction and I can give it to you by this example. If my wife and I, for whatever reason, decide that we don't want our children to associate with their grandparents on either side, I think that is a very basic parental right that is engrained in our tradition and in our statutes. In the event of a divorce, questions of custody become an issue and the best interests of the child become an issue. It then becomes a question as to who shall have control and custody of those children.

Now to get back to my example, if my wife and I, for whatever reason, have made a decision that our children will not visit with my parents or her parents and then one of us dies, what is the magic that should trigger a new legal action in those circumstances to come in

to allow one of the set of grandparents at that point, just because one of those parents has disappeared, to come in and challenge in court, with all of the hurt and the agony that is involved in a custody battle, what is the magic that has happened in that situation that we should be allowing a brand new court action to create rights in grandparents?

As with all of these bills, we are balancing the rights of different parties to a child. I thought about this particular bill for a long, long time and my decision was that in a situation where we are dealing with parental and grandparental rights, I am going to err on the side of the parents on this one.

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

Mr. HANDY: Mr. Speaker, Men and Women of the House: I will emphasize that at the last session a bill was passed that allowed divorced parents and the same case can conceivably exist that Mr. Soule used as a basis of his opposing this particular bill.

It is my considered opinion that the best interest of the child is a standard that would be applied by a judge in awarding visitation privileges. Along with that is the important consideration which would be given to the fact that these best interests can be best served by maintaining contact with loving grandparents.

I do not view this particular piece of legislation as the ultimate solution to this emotional and complex problem, rather I see it merely as a component to the efforts which have been and are being advanced by members of Congress, legislators, judges, court mediators, psychologists and others.

These individuals must join together to form a new partnership that will hopefully form the societal and legislative support that these families so desperately need.

We in the legislature cannot legislate loving, familial relationship; however, it is within our power to do all that we can do to see to it that where these relationships do exist that they continue to do so. We should not force an unwanted relationship between parents and grandparents but I believe that we can foster a wanted and loving relationship between grandparents and grandchildren.

I strongly urge you to support the motion before you.

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

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: I want to ask this legislature to think about this bill very carefully. I do not think that that request is needed. It is obviously an emotional issue with all of us.

I voted with Representative Soule on this bill, against the bill, and I wanted to tell you why. I think Representative Soule gave one of the best speeches I have heard in this House in a long time in explaining just why it was that this is such a hard issue. There is not a person here who would want to vote against grandparents, we all hope that we are going to be one, but what I wanted to share with you is some of the things that I have seen happen when a marriage falls apart either through death or through divorce that makes it in that child's interest to make sure that the possibilities of dispute stay as narrow as possible. One of the saddest things that happens, whether it is a divorce or a death, is if there is a fight in the family, a fight over an estate, a fight over custody of a child. We have all seen that happen in our own families or with neighbors or with our friends. The person who is most vulnerable invariably is the person who is the youngest, the child.

The reason that I am voting against this piece of legislation is because when you take that in the balance, the balance that Representative Soule was talking about, I think the risk of the child being hurt in that hard fought dispute where the grandparent who cannot come to terms outside of court with the only

surviving parent of this child has had to go to court and demand his or her rights and get those rights guaranteed by a judge under his gavel. What is that fight over? That fight is over the right to visit and the cost to that child, the cost in human terms, in my experience, is more often going to leave that child, who is now by court order allowed to visit his grandparent, with deeper scars than he is if he is sticking with the parent who has made the decision that visitation is not going to be permitted.

Parents make mistakes. Sometimes parents do bad things to kids but in my experience, if you have a loving parent, if you have a parent who will goof up in any one of a number of areas but he is still a good parent, then that kid is going to come through into adulthood with a better chance of surviving and I think we ought to be very careful before we tinker into that relationship. I think we ought to be careful when we give the state power to take custody. I think we ought to be careful when we give anybody, whether it is grandparents, brothers, uncles a chance to have visits. Those rights sound great and there are going to be a lot of grandparents out there who may be disappointed by my vote or by any of your other votes who side with the majority, but I think that some of the reasons why a number of people, after hearing the bill, a bill that looked like a great idea at first blush, after more study seemed like maybe not such a good idea.

It is a very delicate relationship and I think that kids are very delicate creatures. I think as legislators, even though our tinkering may be well intended, we ought to be very reluctant to tinker unless there is a real problem. I am not sure right now that there is a real problem.

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

Mr. HALL: Mr. Speaker, Members of the House: Probably you are all aware that I am a grandfather. I happen to have eight lovely grandchildren. I thought a lot about this bill since it began. I do not believe I put much interest in it before because I have been too busy in my own committee, but I can't help but think about what Representative Hayden and Representative Soule have said and it has a great deal of merit. I happen to love my grandchildren and the reason that I love them is because I have worked at it. I happen to have five wonderful children and the reason that I love them and they love me is because we have worked at it but I also happen to know of some grandfathers that don't have brains that God gave a goose, and the same with the grandmothers. I don't believe in cases like that parents ought to have the mandated in any way, shape or manner, to allow that—if they do not want the grandparents to have visiting rights, I think that that should be their prerogative. God forbid that that will ever happen to me because I am never going to stop working at it to make it a success. That is from a grandfather who has had very good success so far with eight lovely grandchildren.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: As you know this is a very emotional bill and I want to respond, first of all, to my good friend from Cumberland, Mr. Dillenback. As you know, one of the reasons why there are so many lawyers and one of the reasons why there are so many cases is because lawyers do disagree once in a while and I do not want to turn this into a lawyer's bill because it is not a lawyer's bill.

There are twenty-five states in this country that have visitation rights at the discretion of the court when there is a finding by that court or by a judge that the child's best interest is met. This bill does nothing more than apply that particular standard to the State of Maine.

Now there are some instances where a grandparent can love and do a lot of good things with that child and all of a sudden that

grandparent's son or daughter dies and, unfortunately, there are circumstances where that person's visitation rights and that relationship that has built up, that love that has built up, is no longer there because of the decision of the other parent.

What this bill does is it allows a judicial finding by a court of law, when one of those grandparents has enough interest to petition that court and that court will find out whether or not it is in that child's best interest that that relationship that was built up goes on.

If there are problems with that relationship or it is shown through the evidence of that court that it would be inconsistent with the best interest of that child for whatever reason, that Judge can deny those visitation rights.

I can tell you, having practiced law for six years, that the court system will deny visitation rights to parents if it is found that it is not in the best interest of that child, to parents, so I know that the courts will look at this very closely, they will weigh very carefully the evidence and if this bill becomes law and it is found that it is in the best interest of that grandchild, then the court will allow some type of visitation rights.

This is a lopsided reported, as you can see, it is an emotional issue and, as the good gentleman from Westport said, you have to weigh both sides. Reasonable people differ, some members of the committee weighed it one way, after looking at the bill, I weighed it another way.

I hope you go along with the Minority Report, ought to pass.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I have been listening to the debate and trying to think of some of the problems that might arise.

A question came to my mind dealing with this surviving spouse. Assuming that grandparents have gotten visitation rights to this child—now we know that a death of a spouse causes a considerable, quite often at least, change in the life of the surviving spouse. Possibly this surviving spouse has a profession or an occupation that cannot be worked at where this surviving spouse is. If the surviving spouse decides that he or she has got to move, we will say to California, would the surviving spouse be precluded from doing this because it would in effect terminate the visitation rights?

The SPEAKER: The gentleman from Brewer, Mr. Cox, has posed a question through the Chair to anyone who may respond if they so desire.

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

Mr. SOULE: Mr. Speaker, Ladies and Gentlemen of the House: I think that can be answered very simply. If there is a pending visitation order, any move that that parent might make that interfered with that order, would be prohibited.

While I am up, I would like to also mention that I think the Representative from Durham, Mr. Hayden, put his finger on a very good point. It is not the best interest of the child test that concerns us, it is the fact that this kind of an action can be brought. The damage is done when the whole issue is brought into court, and by expanding this whole area and by providing what is basically a new type of law suit, we are providing the grounds for law suits and we are providing the grounds for the courts to become involved in situations that in my view are not proper.

The SPEAKER: The pending question before the House is the motion of the gentleman from Saco, Mr. Hobbins, 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.

45 having voted in the affirmative and 74 having voted in the negative, the motion did

not prevail.

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

The gentleman from Bangor, Mr. Kelleher, was granted unanimous consent to address the House.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This morning in debate the Representative from Portland, Mr. Higgins, was speaking and I was half paying attention to what he was saying, to tell you the truth, and I have been here long enough to know that if you can send out fire, you should be able to take it, and if you make a mistake, you should be able to admit it. I have done this before, I have made a few of them; however, I made an error this morning. I raised a question to the gentleman in regards to some comments he made and the question was asked in a tone — and the tone was that I felt that he had a conflict of interest and I was wrong. I apologize to the gentleman and I apologize to this House for making that error. I hope that it is my last one.

On motion of Representative Andrews of Portland,

Adjourned until nine o'clock tomorrow morning.