

# 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**

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**FOURTH CONFIRMATION SESSION**

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**HOUSE**

Tuesday, March 20, 1984

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

Prayer by Pastor Glen Speed, Jr., Church of Open Bible, Athens.

The Journal of Monday, March 19, 1984, was read and approved.

**Papers from the Senate**

Bill "An Act to Amend the Act to Protect the Public from Unsafe Pesticide Use" (Emergency) (S. P. 848) (L. D. 2306)

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

Was referred to the Committee on Agriculture in concurrence.

Bill "An Act to Appropriate Funds for Independent Living Services" (S. P. 850) (L. D. 2308)

Bill "An Act to Abolish the Catastrophic Illness Program" (Emergency) (S. P. 851) (L. D. 2309)

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

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

Bill "An Act Amending the Charter of the Boothbay-Boothbay Harbor Community School District" (Emergency) (S. P. 849) (L. D. 2307)

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

Was referred to the Committee on Education in concurrence.

**Later Today Assigned**

Bill "An Act to Allow Access to Financial Records of Public Assistance Recipients" (S. P. 852) (L. D. 2310)

Came from the Senate, referred to the Committee on Health and Institutional Services and Ordered Printed.

On motion of Representative Nelson of Portland, tabled pending reference in concurrence and later today assigned.

**Unanimous Leave to Withdraw**

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Relating to Signs for Farm Market Sales" (S. P. 768) (L. D. 2082)

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

**Ought to Pass as Amended**

Report of the Committee on Agriculture reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-318) on Bill "An Act Relating to Changes in the Composition and Functioning of the Harness Racing Commission" (S. P. 801) (L. D. 2149)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-318) and Senate Amendment "A" (S-323)

Report was read and accepted and the bill read once. Committee Amendment "A" read by the Clerk and adopted. Senate Amendment "A" was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

**Non-Concurrent Matter**

Bill "An Act Creating the Wiscasset Water District" (H. P. 1328) (L. D. 1765) on which the Unanimous "Ought to Pass" in New Draft Report of the Committee on Public Utilities was read and accepted and the New Draft (H. P. 1712) (L. D. 2242) was passed to be engrossed in the House on March 16, 1984.

Came from the Senate with the Bill and accompanying Papers recommended to the Committee on Public Utilities in non-concurrence.

On motion of Representative Vose of Eastport, the House voted to recede and concur.

**Communications**

The following Communication: (H. P. 1754)

Department of Energy  
Washington, D.C. 20585

The Honorable John Martin  
Maine House of Representatives  
State House  
Augusta, ME 04333

Dear Speaker Martin:

Enclosed is a copy of the first Annual Report to Congress on the activities and expenditures of the Office of Civilian Radioactive Waste Management. This report is made available to you in keeping with the Department of Energy's commitment to inform States, units of local government, affected Indian tribal councils, utilities, and other affected or interested parties of all aspects of DOE's civilian radioactive waste management program.

Chapter I of the Report contains a brief history of Federal legislation on nuclear waste management and highlights the significance of the Nuclear Waste Policy Act Project Office and the subsequent organization and activation of the Office of Civilian Radioactive Waste Management. Specific activities and accomplishments during the 1983 are reported in Chapter III, IV and V. Program costs and receipts are highlighted in Chapter VI. The concluding chapter provides both a summary of major events since September 30, 1983, and a synopsis of planned 1984 activities.

I hope you will find this Report useful, and welcome your comments.

S/ROBERT M. ROSSELLI

Acting Associate Director  
Office of Management  
Office of Civilian Radioactive  
Waste Management

Was read and with accompanying report ordered placed on file and sent up for concurrence.

The following Communication:  
DEPARTMENT OF INLAND FISHERIES  
AND WILDLIFE

March 15, 1984

Honorable Senate President Gerard P. Conley  
Maine Senate  
State House #3

Augusta, Maine 04333

Honorable Speaker John L. Martin

Maine House of Representatives

State House, Station #2

Augusta, Maine 04333

Dear President Conley and Speaker Martin:

Pursuant to the Resolves of 1977, Chapter 55, we have the honor of writing to you to advise you of our progress relating to the installation of a fishway in the Edwards dam at Augusta.

Since the last message we sent you on this subject, the first item which should be brought to your attention is the reassignment of the most senior biologist employed by the Atlantic Sea-Run Salmon Commission. We have assigned biologist Alfred Meister to work full-time at the restoration of Atlantic Sea-Run Salmon in the Kennebec and Androscoggin Rivers. Obviously, fish passage at the dam in question will be an important part of this effort.

Legal research has been undertaken to establish the proper procedure for requiring the installation of the fishway. The Federal Energy Regulatory Commission has the authority to order the installation of a fishway and the standard license under which the dam is operated specifically provides for state agencies to petition for the installation of this type of facility. Jointly with the Department of the Attorney General, a petition has been prepared and will be filed before the end of the month.

The Staff of the Atlantic Sea-Run Salmon Commission has devoted a great deal of time

and effort to the preparation of an Atlantic Salmon Restoration Plan for the State of Maine. This document has now been completed and will be discussed at several informational hearings across the State. The Department of Marine Resources has formulated a draft plan to restore shad and alewives to the Kennebec River drainage. This document will be revised in the near future and a final version will be ready later this year. A thorough scientific basis will obviously be essential to our presentations before the Federal Energy Regulatory Commission.

An indirectly related matter would be appropriate to bring to your attention at this time. We have established an Atlantic Sea-Run Salmon Advisory Council. This is a group of eight citizens who represent a good cross-section of the many people in this State who are concerned about the progress of the restoration of Atlantic salmon and who are willing to give of their time to make it successful. A very productive organizational meeting has been held. The council elected the honorable Donald V. Carter of Winslow as their chairman.

The petition to the Federal Energy Regulatory Commission will very likely result in a public hearing on this matter at which we anticipate the strong support of the Advisory Council and many other interested individuals. The Attorney General has extended his utmost support and we will do everything we can to help him and his staff build a strong case before the Commission. This is the only remaining obstacle to the completion of this project. Consequently, we anticipate that next year's report will also show some very interesting and worthwhile developments.

Sincerely,

S/GLENN H. MANUEL

Commissioner, Inland Fisheries and Wildlife  
Chairman, Atlantic Sea-Run Salmon  
Commission

S/SPENCER APOLLONIO

Commissioner, Marine Resources

Was read and ordered placed on file.

**Reported Pursuant to the Statutes**

Representative Higgins from the Committee on Taxation, pursuant to 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 Provide that Municipalities May Choose to Tax Certain Property Which has been Exempt at a Percentage of Just Value (H. P. 1750) (L. D. 2311) 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 Handy from the Committee on Election Laws on Bill "An Act Concerning Control of the Content of Rebuttals to Media Editorials" (H. P. 1212) (L. D. 1615) reporting "Leave to Withdraw"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 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 Lincoln County for the Year 1984 (Emergency) (H. P. 1749) (L. D. 2305) reporting "Ought to Pass"—Pursuant to Joint Order (H. P. 1572)

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

### Consent Calendar First Day

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

(H. P. 1456) (L. D. 1908) Bill "An Act to Amend the Highway Transportation Reform Act" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-538).

(S. P. 816) (L. D. 2193) Bill "An Act to Clarify the Congregate Housing Program for Maine's Elderly" Committee on Health and Institutional Services reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-321)

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

### Passed to Be Engrossed

Bill "An Act to Ensure Medical Coverage of Residents in Cost Reimbursement Boarding Homes" (Emergency) (S. P. 843) (L. D. 2266)

Bill "An Act to Clarify the Eligibility Provisions for Accident and Sickness or Health Insurance Program for State Employees" (S. P. 846) (L. D. 2292)

Bill "An Act to Amend Certain Definitions in the Maine Emergency Medical Services Treatment Act of 1982" (S. P. 845) (L. D. 2293)

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)

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

### Second Reader

#### Later Today Assigned

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) (C. "A" H-527)

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

On motion of Representative Crowley of Stockton Springs, tabled pending passage to be engrossed as amended and later today assigned.

#### Later Today Assigned

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) (C. "A" H-530)

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

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

MR. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: You want to take a good look at the title of this L. D. because it is actually misleading. It has been replaced and instead of to permit people to work, instead of just indigent offenders, the bill is spread out so it would apply to everybody.

I am not in favor of sending people out to work their fines off. In the first place, if they get caught for OUI, they found the money to buy some booze and they should find the money to pay their fines or they should leave them in jail or keep them around and make them work inside. These people have to spend jail time anyway, so if they can't pay their fines, it has been known that if you keep them in there an extra day or two somehow or other they will find some money. That is what the courts need today, they need money, they don't need these prisoners down there, and I don't think we should let them go out and work that way.

Another thing is, I have some reservations about this bill because if you let these people go

out and work somewhere, even for the city or town or county, what happens if they get hurt? Whose responsibility is it if they get hurt? Is it the responsibility of the county? If they get hurt bad and they qualify for workers' comp, are they covered under workers' comp, these same people that are in there because they might have made one mistake?

This is what the bill is all about, to send them out to work in lieu of a fine. Before it was limited to indigent people. We all have a certain amount of sympathy for indigent people, but the only thing you will do with this is, if you do it this way, I believe the city or state or whatever it is assumes right off a big liability if they do get hurt.

Another thing, I also think that if they do it this way, they will save their money to buy some more booze and come back in front of the court.

I move the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The Chair recognizes the gentleman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, in deference to the sponsor of the bill and certainly Mr. Carrier's interest, I would ask that someone table this bill until later in today's session.

Thereupon, on motion of Representative Benoit of South Portland, tabled pending the motion of Representative Carrier of Westbrook that this Bill and all its accompanying papers be indefinitely postponed and later today assigned.

### Passed to Be Engrossed Amended Bill

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) (C. "A" H-528)

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

On motion of Representative Crowley of Stockton Springs, the House reconsidered its action whereby Committee Amendment "A" (H-528) was adopted, and on motion of the same gentleman, the Amendment was indefinitely postponed.

The same gentleman offered House Amendment "E" and moved its adoption.

House Amendment "E" (H-537) was read by the Clerk and adopted.

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

### Later Today Assigned

Bill "An Act Concerning Maine Farm Wineries" (S. P. 787) (L. D. 2113) (C. "A" S-319)

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

On motion of Representative Cox of Brewer, tabled pending passage to be engrossed as amended in concurrence and later today assigned.

### Orders of the Day

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

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

HOUSE DIVIDED REPORT—Majority (8) "Ought to Pass" — Minority (5) "Ought Not to Pass" — Committee on Labor on Bill "An Act to Create the Judicial Employees Labor Relations Act" (Emergency) (H. P. 1649) (L. D. 2175)

Tabled—March 19, 1984 (Till Later Today) by Representative Beaulieu of Portland.

Pending—Motion of same Gentlewoman to Accept the Majority "Ought to Pass" Report.

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

MR. ZIRKILTON: Mr. Speaker, I would like to pose a question through the Chair. As you

know, there are a number of positions in state government that are considered confidential because these positions deal with information that could cause harm if it were to get into the wrong hands when dealing with labor negotiations and things like that. My question is, would it be a conflict of interest for judges to deal with a matter that could potentially be with their own employees? For example, if they are unable to resolve labor negotiations through the standard process as we now know it and it were then to go on to the courts, would it be considered a conflict of interest for them to rule on a matter that involved their own employees?

My second question to anyone who would care to answer it is, does this act in fact include binding arbitration?

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

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: According to the special commission that was put together by the Supreme Judicial Court, they reviewed the issues of potential conflict of interest and participating on that committee were individuals who are pretty well versed in constitutional law. They opted not to grant any kind of decision making at this point in time on whether there could be a potential conflict of interest. If there were to be one, that would be dealt with as in any other situation by a petition to the Supreme Court to rule on it.

What we are dealing with is simply the mechanics of a collective bargaining process for the employees of the judicial court.

On the second question, the language in this bill is no different than what you would find under the state collective bargaining mechanisms, under the municipal laws of this state. The language is identical to what is in those processes.

I don't know how many people here are ever really made aware of the fact that there can be binding arbitration if both parties agree. The fight over binding arbitration processes is basically because generally one party will not agree.

We have been assured by Mr. Carrigan, who was the chair of the commission that put this report and who wrote the technicalities in this bill, that there is nothing out of the way. The committee, in review of this legislation, posed that same question and I believe Representative Zirkilton was present and the answer was that there is nothing new in this bill.

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

MR. ZIRKILTON: Mr. Speaker and Members of the House: I may be wrong but I was under the impression that municipalities at this point in time were not subject to binding arbitration, and I will now call your attention to Page 9 of this L. D., paragraph 4.

"The parties may agree to an arbitration procedure which will result in the binding determination of their controversy. (B) If the parties do not agree to the arbitration procedure in paragraph A, either party may petition to the board to initiate arbitration which shall be binding." Now, if somebody agrees with the gentlewoman from Portland, Mrs. Beaulieu, that this is in fact the same language as our municipalities are presently governed by, then I will stand here wrong, but if not, then I think we need to clarify it and, Mr. Speaker, I would ask that when the vote be taken, it be taken by a roll call.

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

Mrs. BEAULIEU: Mr. Speaker, I repeat again for the record that the assurances from the legislative assistants that we have, the assurances of the commission that put this bill to

gether, there is nothing new in this language that is different from what you find in other statutes and therefore I believe that the bill is in order, not out of order.

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

Mr. WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to call your attention again to the possibility of a conflict of interest.

You heard Representative Beaulieu say that the Court didn't rule in either way, didn't decide in either way whether or not there could be a conflict of interest or whether there couldn't. In other words, it was a very decisive "maybe." I submit to you that that possibility is somewhat overwhelming because the judges do adjudicate many labor issues not only with all sorts of private and public sector unions but also what happens if they have a conflict or a labor dispute within the court labor system? How on earth do they handle that in an objective way when they are completely surrounded by employees who are unionized?

I submit to you that there is a very definite possibility of conflict of interest in many areas here and I hope that you will vote no against the motion.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: Let me quote from the Statement of Fact. Several days ago the commission report was on your desks, but for the record let me quote from the Statement of Fact what the special commission had to say about the issue of potential conflict of interest.

"Legal authorities disagree as to whether the Separation of Powers Doctrine forbids or allows state legislatures to require the judicial department, an equal branch of government, to extend collective bargaining rights to its employees. Pursuant to the Constitution of Maine, Article VI, and the Revised Statutes Title IV, Section 1, the Supreme Judicial Court has general administrative and supervisory authority over the judicial department, and the Chief Justice, as its head, is responsible for the proper and efficient operation of the department. By agreeing to extend collective bargaining rights to judicial employees, the court does not suggest that it is permitted to abandon those constitutional and statutory responsibilities. Yet, the constitutionally ordained function of the legislature is to set policy and enact laws setting forth the rights and duties of Maine's citizens, and the legislature has chosen to progressively extend the right of collective bargaining to many other public employees in this state. The Advisory Committee"—and this is the key line—"did not find it necessary to seek a final resolution of this issue because it chose to recommend the continuance of the traditionally cooperative relationship between the legislature and the judicial department."

Ladies and gentlemen, the issue of collective bargaining for the people who work in our court system had been around the halls of this House for several sessions. The continual concern of potential conflict of interest has been one that has been raised every single time, but we never took the time and the initiative to have an outside body look at those issues, review what the laws are in other states, and to see what their experience has been with it.

In the first regular session of the 111th Legislature, we enacted a law and it authorized the Supreme Judicial Court to propose appropriate procedures for defining and implementing collective bargaining rights for judicial employees. The Supreme Court vote was unanimous in their intent to grant this right to their employees.

Technically, with the exception of those who work for the legislature, they are the last group of public servants to be granted this right. In the Order by the Supreme Judicial Court, they

established an advisory committee on collective bargaining for judicial department employees. I was privileged to participate with that committee throughout the process on what they were doing and why. I happen to know first hand the detailed, constructive and dedicated pursuit that they put into their effort to put together a mechanism that will be more appropriate to take care of the tasks that we have before us.

Ladies and gentlemen, I sincerely urge you to adopt this proposal in lieu of the fact that some of the finest minds in the State of Maine served on this commission, and I trust that they have put together a fine document that will bring a good experience in behalf of the courts and in behalf of its employees. This whole report and the L. D. before us has been unanimously endorsed by the members of the Supreme Court, and I believe the yeas and nays have been requested.

The SPEAKER: The Chair recognizes the gentleman from Bucksport, Mr. Swazey.

Mr. SWAZEY: Mr. Speaker, Ladies and Gentlemen of the House: I voted this piece of legislation out favorably. I will read further from the Statement of Fact. It says: "The Judicial Employees' Labor Relations Act proposed in this bill is modeled closely on the State Employees' Labor Relations Act and the Public Employees' Labor Relations Act and the Municipal Public Employees Labor Relations Act, with some changes required to recognize constitutional differences between the executive and judicial branches. The Advisory Committee attached comments to the draft legislation to explain the reasoning behind these changes and their other recommendations. The full comments are available in the report of the Advisory Committee; this statement of fact contains just a summary."

I would hope you would vote favorably on this bill, as we already have these acts in place now.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the gentledady from Portland, Representative Beaulieu.

I have sat here listening to the debate and I am left with the impression that this bill contains the binding arbitration issue. It is true that the judicial branch is a separate individual branch under the Separation of Powers of our form of government. However, if I look at the Constitution, Section 22, it also states that no tax or duty shall be imposed without the consent of the people or by representatives in the legislature.

If in fact we do have binding arbitration, we would be abrogating out duties as representatives for binding arbitration could automatically call for a tax increase and we would have no choice but to vote for a tax increase. My question is, has this been researched for its constitutionality?

The SPEAKER: The gentleman from Winslow, Mr. Carter, has posed a question through the Chair to the gentledady from Portland, Mrs. Beaulieu, who may answer if she so desires, and the Chair recognizes that gentledady.

Mrs. BEAULIEU: Mr. Speaker, yes, it has been researched. The language in this L. D. is identical to what you find in the other two collective bargaining acts concerning state employees, also the public employees, and there can't be any form of binding arbitration because like everything else that involves contractual agreements, this legislature shall have the final word on whether anything that is bargained for is going to be accepted or rejected. In other words, after the negotiations, like an MSEA contract or an AFSCME contract, it comes back to this body like everything else.

I ask you not to be misled or fear the language in the bill; it is in every other act. And yes, we

have researched this very carefully.

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

Mr. DIAMOND: Mr. Speaker and Members of the House: In respect to the concerns over whether or not there is binding arbitration contained in this legislation, the answer is yes and no. It does contain the provisions that are already in existence with state employees, but that does not include binding arbitration over salaries, pensions and insurance and other benefits, and that is the concern that I believe Mr. Zirkilton and Mr. Carter had, and that is not contained here.

On Page 11 of the bill, and I will read you lines four through ten, it says: "With respect to controversies over salaries, pensions and insurance, the arbitrator shall recommend terms of settlement and may make findings of fact. The recommendations and findings shall be advisory and shall not be binding upon the parties. The determination of the arbitrator on all other issues shall be final and binding on the parties."

So if you were concerned that we are somehow sneaking in the provision that we defeated last year, I assure you that that is not the case. This is an excellent bill, an excellent report by the special commission, and I hope that you will support the motion of the gentledady from Portland.

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 acceptance of the Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, I ask leave of the House to pair my vote with the gentleman from Washburn, Representative Crouse. If he were present, he would be voting yea; I would be voting nay.

#### Roll Call No. 386

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crowley, Daggett, Diamond, Erwin, Gwadnosky, Handy, Hayden, Hickey, Higgins, H.C.; Jacques, Jalbert, Joyce, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Reeves, P.; Richard, Ridley, Rotondi, Smith, C.B.; Soucy, Stevens, Swazey, Tammaro, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Anderson, Bell, Bonney, Bott, Brown, D.N.; Cahill, Callahan, Carrier, Carter, Conary, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Hall, Higgins, L.M.; Holloway, Ingraham, Jackson, Joseph, Kelleher, Kiesman, Lebowitz, Lehoux, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McPherson, Moholland, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pines, Racine, Randall, Reeves, J.W.; Roberts, Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.W.; Sproul, Stevenson, Stover, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Armstrong, Conners, Gauvreau, Hobbins, Kane, Michael, Rolde, Small, Soule.

PAIRED—Crouse-Strout.

76 having voted in the affirmative and 64 in the negative, with 9 being absent and 2 paired, the motion did prevail.

Thereupon, the Bill was read once and assigned for second reading later in the day.

The Chair laid before the House the second

item of Unfinished Business:

HOUSE DIVIDED REPORT—Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" — Committee on Labor on Bill "An Act Establishing the Emergency Service Personnel Arbitration Act" (H. P. 1299) (L. D. 1724)

Tabled—March 19, 1984 (Till Later Today) by Representative Beaulieu of Portland.

Pending—Motion of same gentlewoman to Accept the Minority "Ought to Pass" Report.

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

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

HOUSE DIVIDED REPORT—Majority (7) "Ought Not to Pass" — Minority (6) — "Ought to Pass" in New Draft (H.P. 1721) (L. D. 2261) — Committee on Business Legislation on Bill "An Act to Provide for Competitive Equality Between Financial Entities" (H. P. 1461) (L. D. 1913)

Tabled—March 19, 1984 (Till Later Today) by Representative Diamond of Bangor.

Pending—Acceptance of Either Report.

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

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

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

The gentleman may proceed.

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill is the one that has attracted some wide interest and well it should. It deals with the power of banks to sell insurance, an instrument called an annuity. Many of you have been contacted by many of your insurance agents and agencies and some of you have been contacted by your bankers. I believe that it is an area that needs to be discussed and needs to be highlighted in this session. We are talking, really, about the whole area of integration of financial services, and I would like to begin by giving a plug to the report that our committee put out entitled "The Financial Services Revolution." Even though that is a strong word, it is not a word that is misused.

We discussed this at length in the 110th around the interstate banking bill. We have passed interstate banking bills in the 111th, but we have not discussed the area of the integration of financial services.

Everyone here has some involvement with a bank. I am sure almost everyone has some involvement with insurance. Many of us don't have the opportunity to have involvement with stocks and bonds directly, but all of our insurance companies and banks do.

We are dealing with the whole area of the financial supermarket—can you buy your stocks where you buy your socks—the whole business of Sears and Roebuck doing everything from credit to insurance to owning a bank to owning an insurance company to owning the largest real estate company in the United States, not to mention the things that they don't do dealing with financial services like florists. Now you can have your shoes shined at their laundry, everything else, but in the area of financial services, they are strong and powerful, as are many, many other groups. And even though we are talking about a minor matter this morning, we are talking about an area that is major to this country, major to our state.

The matter at hand deals with whether we will allow banks to sell a product called annuities, which other members of my committee will explain more thoroughly.

Last year banks came in and they asked to be able to sell life insurance, and our committee unanimously said no, and that was not brought before you. This year they asked to come to sell this annuity and they asked to do it in one or two ways, and we said no to one of those ways.

They wanted to be able to sell either as an agent of an insurance company or to form their own specialized annuity company, and we said no to the annuity company.

This is a matter of regulation, and for those of you who saw me preaching in the middle aisle the other day, on Thursday, when many people were here to lobby as insurance people, and I understand their concern, I don't blame them for their concern, I am as concerned and worried about the area of financial integration as anyone else because my committee, our committee, is responsible for overseeing the separate bureaus that we have, the Bureau of Insurance, the Bureau of Banking and the Bureau of Credit, along with the Real Estate Commission. Those are integrating so fast, things are happening so fast, that we are concerned and we are trying in every way to stay on top of it, and that is what this report is all about.

As I said to them, yes, you would like to have things stay the way they are; yes, you would like to have everything stay safe and sound; yes, you would like to have banks stay out of the area of risk decisions; yes, you would like to have banking do banking and insurance do insurance and security houses to stick with their stocks and bonds. But that is not the way it is, it is not the way things have been going for the last several years. Things are going "H" bent right now for change, and if you stand still in a change situation, you get run over. Things are going to change no matter what we do here, so as reasonable regulating people, it is my belief and the belief of many members of my committee that we have to make changes. We have to move and therefore control. If we don't move, we will lose control.

The whole insurance industry at this time is controlled only by the states. It is not true for banking, not true for credit, not true for stock, although we have our areas in each one of those, but insurance is still an area in which we have almost total control. The insurance industry throughout the United States is fighting tooth and nail to keep it that way. I am not sure whether they can do that or they should do that, but for the time being, it is our responsibility.

We are saying that a very small change will be allowed. We have said no to many major changes, but we have said that in this area we will allow banks to sell a product that is a logical extension of things they do now, IRAs.

I urge you to take an approach that has some vision, that is policy-making, and allow us to move forward and control, because if we don't, we will lose control.

You may not like what I am going to say and I don't like what I am going to say, but I am going to say it—these industries have decided what they want to do and then they go ahead and do it and they find a way to do it, and we have to operate within that. We have to bring about control as best we can within that, and I will give you just one example. In the State of Maine so far we have had tremendous cooperation between banks, insurance companies, credit and our state regulating agencies. I believe that if we give in this one area we may keep some control for awhile, but I also believe that if banks and insurance agencies want to, they can get together right now. Our insurance superintendent says they can't but I believe that they will do it. The Bank of America is doing it in many states. In other words, what prevents an insurance agency from setting up shop in a bank lobby and working together? Not much, I tell you, and I think this is one way we can keep that under control.

I urge you to support myself and members of my committee in passing this minor opening of regulation between banking and insurance.

THE SPEAKER: The Chair recognizes the gentlewoman from Presque Isle, Mrs. MacBride.

Mrs. MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote

against the "ought to pass" report so that you can accept the "ought not to pass" report of the committee, the majority report.

I am opposed to this bill for I do not feel it is in the best interest of the consumers for a number of reasons. Number one, your insurance agents for the most part are well trained. They offer a personal and specialized service. They come to your home to help with your insurance planning. A bank would not give that service.

Number two, I am concerned about having banks control all of the assets of an individual, all of your eggs in one basket, as it were. I am concerned about the pressure the banks could exert for insurance when a person is applying for a loan. Should one banking institution really control your car loan, the mortgage on your home and everything else that you own?

Number three, this bill is really just a foot in the door to selling all kinds of insurance at a later date. If we allow annuities this year, next year they will be back for more insurance.

Number four, Congress has considered letting banks sell insurance but so far has rejected the plan. As a matter of fact, Senator George Mitchell wrote in a letter in October 1983, and I quote, "I feel strongly that now is not the time to permit bank holding companies to expand their activities beyond the traditional province of finance."

Number five, our insurance business in Maine is chiefly handled by agents who are small businessmen, and I think that we need to keep all of our small business that way in the state.

Lastly, I think we have done enough for the banks during this session. We have approved interstate banking, and that really is a big step forward for them. There are a number of bank mergers taking place in Maine with out-of-state banks at the present time. I think the banks have enough to do at this present time adjusting to that change and all the concerns that will be involved without adding another category.

Ladies and gentlemen, I hope you will vote against this bill and I request a roll call.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: A funny thing happened to me on the way to the insurance company. I called Union Mutual Insurance Company because I was in a position to an annuity, and lo and behold, Union Mutual told me, we don't carry annuities. I thought all insurance companies carried annuities. I had to call Boston to have an evaluation done on the various insurance companies to see which one would be viable for me, which would have enough security, would have enough reserve for me, so that if something happened I would still have my annuity, and eventually I did buy my annuity through another insurance company.

The question I have to somebody is, it seems to me that if a bank handles annuities, the question would be, would the reserves be there, would they handle it themselves or does the bill allow them to sell out to an insurance company?

If they are insured up to \$100,000, if they use their own monies, and the federal government insures the deposits up to \$100,000, I would see nothing wrong with the banks handling annuities. I don't think many people are going to buy more than \$100,000, and if they do, they then would go to another bank. So I would like to have somebody explain to me if the banks would provide the annuity and then in turn hand it over to an insurance company, or would the banks actually handle the proceeds and the finances of this annuity.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I will first answer Repre-



sentative Dillenback's question. If he will look at the bill closely, he will find that the only thing that the new bill does is to let a bank sell it. Insurance companies will still have it; therefore, the banks will have no reserves whatsoever. They act simply as an insurance agent.

I think we came out with a fairly good bill. Originally, the bill did ask for the legislature to let banks set up an annuity company. We turned that down for very good reason, and the reason that we turned that one down was a question of finances. In my opinion and the opinion of others on my committee, annuity is a loser and no way could the banks set up a company to write annuities and make any money. That is one of the reasons that Union Mutual does not write individual annuities.

I have been in insurance all my life. Why would I be supporting this bill? The major reason that I am supporting the bill is that a customer that has dealt with a financial institution for years should not be required to seek a stranger to further his remaining financial needs. Today, any financial institution can provide a client with benefits for a fixed period of time. This is called an annuity certain. An annuity certain depends on two things—first the period and frequency of which the benefits are paid; second, the interest rate assumed by the financial institution. The total of the client's funds available are divided by this annuity certain to provide the benefits payable.

In addition, insurance companies only can provide a client with benefits for life through the use of what they call just simply a life annuity. A life annuity differs from an annuity certain in that the years certain provision is changed to life. This simply involves the use of a table which takes into consideration the client's present age. There is no mystery about it. In fact, it is easier to figure a life annuity than it is an annuity certain.

The benefits payable for life are simply obtained by dividing the total of the client's funds available by the annuity for the client's age.

Since the financial institution of the client has no financial risk involved, their only concern must be to provide their client of long-standing with the best service possible, which would mean obtaining the largest possible benefits payable over his or her lifetime. In my opinion, if this bill goes through the banks will contact the Insurance Bureau and get a list of all the companies writing annuities and will then be able to select the best benefits. Now you say, well, an agent can do that. Well, an agent does not do that. An agent only represents a couple of companies in the annuity business and he will not take and go with the whole field and see what the best benefit is.

Last year and previous years, this legislature turned down the writing of life insurance by banks principally because of the possibility of coercion. I don't see this in the case of annuities. In fact, it is just the opposite of life insurance and we are, in the majority of cases, dealing with sophisticated buyers.

Ladies and gentlemen, I hope you support the Minority "Ought to Pass" Report.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I am amazed with my very dear friend, Mr. Perkins, because over the many years that I have known him, I have heard him talk entirely different, and I am not criticizing him because I consider him one of the best in his field, if not the best in Maine.

As we are now, these savings banks have safety deposit boxes, they have checking accounts, they have certificates, I know because I have some from one savings bank, they have credit cards, and Mr. Brannigan spoke and Mr. Perkins spoke and the only words I heard were annuities. I got one letter from the president of a savings bank and he told me to support the annuities and insurance. It would appear to me that there is no doubt in my mind that pos-

sibly the commercial banks would follow suit but somewhere along the line, I think we have to pull up to a halt.

I would like to ask this question. The savings banks have savings as the commercial banks have, the commercial banks are not involved in this, but if you would buy, as Mr. Dillenback did, a sound annuity, I am talking a solid annuity, for about \$100,000—what is the security of your savings? I understand that it is \$40,000 in the banks, commercial and savings, who secures and assures the extra \$60,000?

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: It would be the insurance company that had the risk. The bank acts just as an insurance agent. Once the annuity is sold, the risk transfers entirely to the insurance company.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: The federal government gives the \$40,000 security; who gives the \$60,000 security to the insurance companies? They can go broke too, you know.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: We would hope that the Bureau of Insurance, which licenses the insurance companies, will take care of that little thing. Obviously, there are some companies that go broke but they are few when you think of the 1800 or more that write this kind of business.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: One thing that has to be mentioned this morning is the fact that the insurance company last year, as you heard, came before the committee and requested authority to be able to sell insurance. As our good chairman mentioned, there was a unanimous report that they should not do this. Well, this year they came in with what they classified as the minor bill allowing them to sell annuities through agents. If you take a look at what this means, it means that the banks are planning on having an agent in the bank someplace, sitting out in the lobby, selling annuities.

You know that if you are out in the boondocks and have a branch office, you certainly are not going to have an insurance agent or someone who would be out there selling you annuities, so this will cause a tremendous burden on the individual that will be seeking advice trying to obtain the proper data as to which type of insurance is required.

Let's take my Biddeford area as an example. We have fourteen banks in the area of which eleven are branches. The main office is located in Portland and certainly you will not have someone in each bank qualified to be able to provide you with advice as to which type of insurance or which type of annuity is best suited for you. It means that you are going to have to drive from Biddeford to Portland. As I stand here, I do not think that the banking industry will send their agents all the way down to Biddeford to discuss annuity problems.

You have heard this mentioned before, that the only reason why this bill came in this year is for the banks to get their foot in the door, and once they get their foot in the door, they will be back next year to be able to sell the remaining types of insurance that are available. They will claim that their agents are being discriminated against because they can only sell annuities. They will have their foot in the door and don't you think that they will push hard to open that golden door, and once it is open, the banks will then be in a position to control lines of credit as well as insurance needs.

If you are looking for money to buy a home, a prerequisite established will be that life insur-

ance and a homeowner's policy will be purchased from the bank. If you buy a car, you can bet your last dollar the insurance will have to be purchased at the bank. You can go on and on and on and the end result will be that the banks will have a tremendous clout in the community. They will eliminate the opposition through coercion and capture a large percentage of the market.

I feel that insurance agents will not be able to compete against the economic and coercive power of banks; hence, agents will slowly disappear from the scene and without a competitive market, the buying public will be overcharged. We should avoid taking any step at this time that will permit banks to be in a position to have an unfair competitive advantage which will benefit only the banks at the expense of the consumer.

At the public hearing I asked this question—I said, how will the consumer benefit by having or authorizing the banks to sell annuities and nobody was able to answer that question, no one. The only ones that will benefit will be the banks.

My chairmen, I respect them very highly, mentioned that we should move forward to retain control. If we don't, we are going to lose control. I would like to know what control we are looking for and what control we would be losing if we do not permit the banks to sell annuities.

I would like to repeat a comment that generally is being said by our good friend from Madawaska, Representative McHenry—if it is not broken, there is nothing to be fixed.

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

Mr. POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I rise to say that I support my chairperson on the Minority Report. I am also proud to say that I have been affiliated with an insurance company for over twenty-one years and at the present time I have a license to sell life insurance with five companies. I would also like to say that at this time I oppose banks going into the life insurance business—I repeat, going into the life insurance business. I oppose it today, I will oppose it tomorrow.

In answer to my good friend, Norman Racine, I would say that if this bill came before us and we do permit banks to go into the annuity business and next year, as they say, it is camel's nose under the tent, a foot in the door, let it be what it be.

I think the 112th, the 113th, the 120th, the 140th could very well answer that question and I think that they would do what they would have to do with that bill, most probably defeat it.

Many agents I spoke to in the corridors this past Thursday and probably many of you also spoke to them, but it seems as if some of them were just pushing them on me, but I learned an awful lot by listening to these agents because I think we come from the same area. Many of them told me that they didn't write much annuity business themselves and that their main concern was life insurance because, ladies and gentlemen, a licensed life insurance agent makes his money by selling life products or group products. I have sold annuity products but the commission scales were not that great and when I found what buttered my bread, I went where I had to do the business, so I sell life insurance.

I say to you, life insurance is not before you today in any shape or manner in this bill. If you read the bill, you will not find anything in regards to life insurance.

A large amount of the agents that I spoke to out in the corridor also told me that their interests did not deal much with the annuities because of the commissions. They are primarily agents and I would say that if they ran into some business for annuities, someone wishing to purchase an annuity product, I would say

yes, the agent would sell it. I personally am not ashamed to say that I have referred many of my clients to go to a bank seeking their IRA product and some I have sold. That is why I say, the bill before you is strictly where the banks are allowed to sell annuities. The reason that the banks want this annuity project, to me it is a very plain and simple one—they want to take care of their customers as well as the life insurance agent wants to take care of his customers and his clients.

Let me give you a small example of the way I can understand it and try to relate it to you in some type of simplicity and I hope that I can make it simple. Let's assume that someone at the age of 25 or 30 goes to the bank and buys an IRA. He says, Mr. Bank, I would like to buy an IRA, here is my \$2,000 and he continues making his \$2,000 payments every year. At the end of the period, now comes the golden age and he is ready to retire, he is 59½, he is 62, 65, let it be the day he decides to retire, here is the problem, now the problem starts.

Let's assume that over all these years he has put this money in and now this money has amassed to a sum of \$125,000 to \$150,000 and he says to his friendly banker, I want to retire and I want to go to Miami, Florida, I want to go to Jamaica and the islands so please send me a check. The bank has no problem in sending him a check but the banks want to be able to offer their customer an option and this is the key—it is the guaranteed lifetime option, that is what banks would like to have.

Insurance companies are the only companies allowed by law to issue annuities which can provide you with a retirement income you cannot outlive. You can be guaranteed a lifetime income which will never decrease. This is very important. This customer does not want to outlive these dollars. He wants to make sure that should he live 10, 15, or 20 years, that those dollars will be there for him. I feel that this is part of the problem. Banks would like to be able to provide this to their customers and I feel, being a life insurance agent myself, that I am not infringing nor hurting or tampering with any of my brother or sister agents out there who are making themselves an income selling life insurance.

I hope to continue selling life insurance and I hope to continue deriving a good income from it for there is a good income to be derived from it, but I also say that the day has now come that the financial institutions are only asking for a particular type of product so they can serve their customers and also your customers. This is why I say, many of you members here in the House who have taken the advantage of the IRA accounts and who have done it with banks, you very shortly yourselves will be approaching those years, you would be looking for the option and if you want the lifetime option, you will have to take your dollars, \$125,000 or \$200,000, and march yourself down to a life insurance institution that sells the annuity, that makes the product available to you, and say, here I am, here is my \$150,000 and they will set you up with a lifetime income option. Remember, no one can guarantee you today what that option will be then. You buy that option now, which could be greater later.

And remember, if you buy that single premium retirement annuity, you will pay a one time front end commission, which could be three or four percent regardless of what it would be.

So I say to you, allow the banks the job to do and service your customers, your constituents, your clients, my clients, everybody's clients.

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

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I am afraid that I cannot be as naive as the good gentleman from Lewiston and think that the banks are not going to move into his life insurance, lock stock and barrel in a few years.

I was terribly disappointed in the first session when people here voted for that \$12 credit card. I have talked to people since then and they said, I cannot believe that I voted for that. I can. A certain gentleman in this House gave you a song and dance and you went for it. That same gentleman this morning is trying to give you another song and dance and I hope you do not go for it.

Mr. Brannigan said this morning, things are moving too swiftly; I agree with him, they are moving swiftly but I do not want them moving that fast, I want to have control of it and let's sneak it in there slowly.

Another thing while I am on my feet—three weeks after that \$12 credit card fiasco went through, I received a report from a bank that I have a little stock in and they said they were pleased to report to me that as of then they were going to give me 14.7 percent more than they had the year before, and that, incidentally, was without the \$12.

It seems to me that whenever someone mentions the word "bank" in here, everyone starts to do a nip up and I think that it is time we said no to the banks just a little bit. I do not want them governing my life, I do not want them running my life, I think I have brains enough to run my own life. I think somewhere along the line we have to stand up in this House and do a little thinking and do a little voting and say no, you are not going to govern us, we will govern ourselves.

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

Mr. JALBERT: Mr. Speaker, Members of the House: All I have heard is annuities. I got a letter and I can bring it in here tomorrow morning if you table this bill, I will bring it here that is from the head of my area's savings bank. He is a very good man, he is a very close personal friend of mine, extremely close personal friend of mine, who told me, and I am sure others in the delegation got the same letter, he said, Louie, and he wrote a little note down at the bottom of the page—just hope you are feeling well, I would like to see you. Hope you support the annuities and insurance bill before the legislature. I am not in the habit of lying, that is what he said.

As far as my dear friend on my left who just spoke so eloquently, the credit card—I got a letter ten days ago from a credit card company telling me that they were giving me, just through my signature, a \$5,000 credit card credit—\$5,000, no mention of how much it would cost me. Two days later I am waiting for the news to come on and that comes on by the same company offering people \$300 credit cards for a minimum charge of \$25. Believe you me, that convinced me of what I have heard and what I have seen when I have read about credit cards—here is my credit card, that green stuff, and I keep it right close to my heart, you had better believe it.

I wouldn't buy a credit card if you could give me all the credit cards in the world and give me ten more years of life, I would refuse them. They are now up to 18 percent. I will tell you what happens in your malls and all those stores, all the buying that is being done, you can buy all you want, just give them your credit card. They call up and if you are not up over your limit, boom, you are down there and they still give you an extra month to pay, you do not have to pay until February.

It is just a question of starting, getting in your door. I have insurances, I am going to sell my insurances, I am going to buy certificates with them. I want my dough, it is my money. Why should I give it to some guys I never knew? I have some relatives that I never met in my life, why should I give them my money? I am going to get it while I am living, give it to somebody else or spend it myself or spend it on my wife.

My wife told me last week that she had a good deal, a tax sheltered program that some insurance man told her about—Mr. Smith is

laughing because he has seen the goods. She took the shelter program all right. She went down to a jeweler and went through so much dough I thought I would wind up on food stamps. The man is a good man, he happens to be the Commissioner of Insurance, of taxes, right here in this state. He came to my house and I was not home and he said, I have a good tax shelter plan for you Yvonne. She thought it went awfully fast. I called up and sure enough, she came back home, jeepers crow, last week I went home and she was lying down and I said, you won't be able to stand up to make my supper, you are all weighted down with those sapphires and diamonds, this and that and the other—some of you have seen them.

To whomever the person is who made the statement that they are not going to be told by banks what to do, neither am I. I want to make sure that when I go to banks, I want to get my money when I want it, I want to know how to invest it. I will tell you what a lot of insurance people do today, a lot of people who are in the insurance companies are no longer in insurance companies, they now collect the money off the insurance policies they have sold over the years. They have made money. People used to go for insurance companies.

Let me ask any of you here, how would you have liked to have awakened this morning and said to yourself, the only job I have got is to go out today and sell life insurance—can you imagine that? Why I would put a gun to my head and boom, that would be the end of that. Jeepers crow, just thinking about it. God bless the people who sell life insurance. But today a lot of them have gone out of life insurance, a lot of people who are in the life insurance business today, they are not in the life insurance business, they collect from the dues on insurance policies that they sold for years. God bless them for the patience that they have had to sell life insurance, because believe you me, when it rains out or it sleets out and you have nothing but a thin raincoat and a tin visor and you have a briefer, you go rap at someone's door and say, I have a very fine insurance program for you, what do you think? Bang, down goes the door, that is the end of it, you go back home or go to your famous pub and have a beer.

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

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I wasn't planning on speaking on this but I feel that we should not have the banks in the insurance or in the annuity business. I feel that the banks are involved in too many things already. I guess, in my opinion, all this bill will do is put a lot of small businessmen out of business. I would hope that you would vote against this present bill.

I would request that we have a Division.

The SPEAKER: A Division has been requested.

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

Mr. BOTT: Mr. Speaker, Men and Women of the House: I rise today to urge you to vote against this bill on behalf of the consumer. It is my belief that with all the many services that a bank provides, it would be difficult for them to match the personalized service that insurance companies via their brokers can provide. The insurance business is a profession like that of doctors, lawyers and bankers. I would urge you to vote against this bill because it would lead to an undue concentration of economic power, to increase unfair competition and, above all, lack of individual service and attention paid to a consumer.

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

Mr. MATTHEWS: Mr. Speaker, Members of the House: As just one consumer, a small consumer from Winslow, I guess I rise to ask a question of the members of the "Ought to Pass" Report that was raised by my good friend from



Biddeford, Mr. Racine. My concerns are, what benefit will this have for consumers? And as one who listened to the insurance companies and the banks telling me that they were fighting for consumers, I guess I would like to steer through all the crowd and find out what the benefits are in this bill for consumers—if someone would care to answer.

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

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to continue this song and dance, I will try to keep it to a slow shuffle.

The answer as far as consumers are concerned is that banks now sell IRA's. The end product for an IRA often is an annuity. That is the reason why we feel that it is logical for banks to sell this one type of insurance product.

Banks will have trained and have licensed some of their personnel in each branch to be sales persons of annuities. That is something that we have been told and that is something that I would assume would be carried out or would be a problem with our committee in the future.

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 Chair recognizes the gentleman from Lewiston, Mr. Pouliot.

Mr. POULIOT: Mr. Speaker, just a point of information? If I vote on this issue, would I be in conflict of Rule 19?

The SPEAKER: The Chair would advise the gentleman he would not be in conflict of Rule 19. The gentleman has revised his question as to whether or not he would be in conflict of interest. The Chair would advise the gentleman that that question properly belongs before the Governmental Ethics Committee and it is not proper for the Chair to rule on that matter.

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

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

Mr. CARTER: Mr. Speaker, I rise on the same issue and wish to be excused under Rule 19.

The SPEAKER: The Chair will excuse the gentleman from Winslow, Mr. Carter, from voting on the issue.

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

Mr. PARADIS: Mr. Speaker, I request leave of the House to pair my vote with the gentleman from Durham, Mr. Hayden. If Mr. Hayden were here and voting, he would be voting yes; I would be voting no.

#### ROLL CALL NO. 387

YEA—Brannigan, Clark, Cox, Dillenback, Hall, Ingraham, Kelleher, Kilcoyne, LaPlante, Locke, Manning, Masterton, Matthews, Z.E.; Maybury, Michaud, Mitchell, E.H.; Murray, Perkins, Pouliot, Richard, Robinson, Rotondi, Small, Smith, C.B.; Stevens, Stover, Swazey, Theriault.

NAY—Ainsworth, Allen, Anderson, Andrews, Baker, Beaulieu, Bell, Benoit, Bonney, Bost, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Callahan, Carrier, Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Conary, Connors, Connolly, Cooper, Cote, Crowley, Curtis, Daggett, Davis, Day, Dexter, Diamond, Drinkwater, Dudley, Erwin, Foster, Greenlaw, Gwadosky, Handy, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Jackson, Jacques, Jalbert, Joseph, Joyce, Kelly, Ketover, Kiesman, Lebowitz, Lehoux, Lisnik, Livesay, MacBride, MacEachern, Macomber, Mahany, Martin, A.C.; Martin, H.C.; Masterman,

Matthews, K.L.; Mayo, McCollister, McGowan, McHenry, McPherson, McSweeney, Melendy, Mills, Mitchell, J.; Moholland, Murphy, E.M.; Murphy, T.W.; Nadeau, Nelson, Norton, Paradis, E.J.; Parent, Paul, Perry, Pines, Racine, Randall, Reeves, J.W.; Reeves, P.; Ridley, Roberts, Roderick, Rolde, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.W.; Soucy, Sproul, Stevenson, Strout, Tammaro, Telow, Thompson, Tuttle, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Armstrong, Cahill, Crouse, Gauvreau, Hobbins, Kane, Michael, Soule, Vose, The Speaker.

PAIRED—Hayden-Paradis, P.E.

EXCUSED—Carter.

28 having voted in the affirmative and 110 in the negative, with 10 being absent, 2 paired and 1 excused, the motion did not prevail.

Thereupon, the Majority "Ought Not to Pass" Report was accepted.

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

Mr. HIGGINS: Mr. Speaker, having voted on the prevailing side, I move we reconsider our action and hope you all vote against me.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, now moves that the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted. Those in favor will say yes; those opposed will say no.

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

Sent to the Senate.

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 Wentworth of Wells,

Recessed until four o'clock in the afternoon.

#### After Recess

4:00 p.m.

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Representative Mitchell of Vassalboro,

Recessed until the sound of the gong.

#### After Recess

5:10 p.m.

The House was called to order by the Speaker.

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

Bill "An Act to Provide Additional Funds to Reduce Potato Inspection Costs Under the Maine Quality Control Program" (Emergency) (S. P. 856) (L. D. 2319)

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

On motion of Representative MacBride of Presque Isle, the Bill was indefinitely postponed in non-concurrence and sent up for concurrence.

Bill "An Act Concerning Disorderly Conduct and Failure to Disperse and to Promulgate a Law Enforcement Manual" (S. P. 853) (L. D. 2318)

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

Was referred to the Committee on Judiciary in concurrence.

#### Ought to Pass in New Draft/New Title

Report of the Committee on Judiciary on Bill "An Act Eliminating the Need for the Nonowner Spouse to Sign All Deeds of Conveyance" (S. P. 654) (L. D. 1845) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Requiring Nonowner Spouses to Record Claims to Marital Property under Divorce Laws, and Clarifying the Need for the Nonowner Spouse to Sign Conveyances in General" (S. P. 855) (L. D. 2313).

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 read once and assigned for second reading the next legislative day.

#### Divided Report

Majority Report of the Committee on Agriculture on Bill "An Act to Provide for Tuberculin Testing of Cattle to Insure Out-of-State Markets for Maine" (Emergency) (S. P. 766) (L. D. 2079) reporting "Ought to Pass" in New Draft (S. P. 854) (L. D. 2312)

Signed:

Senators:

ERWIN of Oxford

WOOD of York

Representatives:

CROUSE of Washburn

MAHANY of Easton

MICHAEL of Auburn

LOCKE of Sebec

PARENT of Benton

SHERBURNE of Dexter

ANDERSON of Stockholm

SMITH of Island Falls

STOVER of West Bath

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

Signed:

Senator:

HICHENS of York

Representative:

McCOLLISTER of Canton

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

Reports were read.

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

Mr. McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I move the Majority Report.

I am sorry, in the absence of my chair, I do not feel it is proper to move a 10 to 2 report.

The SPEAKER: The gentleman from Canton, Mr. McCollister, moves that the Majority "Ought to Pass" Report be accepted in concurrence.

The gentleman may proceed.

Mr. McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against the motion. This bill is another dip into the General Fund at a time when we cannot afford it.

This bill says that we, the people are going to pay for having a TB test made on cows that do not need them. The State of Maine is a TB test free state. Because one dairy wishes to ship milk into Connecticut, we, the people of Maine, are going to pay for testing cows throughout the state for those people who are going to ship out of state. The bill says we will not test those cows where they are going to be selling the milk on the Maine market. At least one dairy has expressed the feeling to me that this could be a market disadvantage for him in competing with out-of-state dairies who sell milk in Maine.

Basically, I do not believe that we should be

testing for TB when we are a TB-free state.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of Representative McCollister of Canton that the Majority "Ought to Pass" Report be accepted in concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

68 having voted in the affirmative and 33 having voted in the negative, the motion did prevail.

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

#### Non-Concurrent Matter

Bill "An Act Concerning Menhaden Fishing in Casco Bay" (H. P. 928) (L. D. 1207) on which the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-504) Report of the Committee on Marine Resources was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-504) and House Amendment "C" (H-520) in the House on March 19, 1984.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Marine Resources read and accepted in non-concurrence.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

Mr. LIVESAY: Mr. Speaker, Men and Women of the House: I have a confession to make. It may even be characterized as an apology. I am the sponsor of this menhaden legislation, and I would hope that we would keep this bill alive a little bit longer, and in an effort to do that, I would move that we insist and ask for a committee of conference.

Thereupon, the House voted to insist and ask for a Committee of Conference.

#### Petitions, Bills and Resolves Requiring Reference

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

##### Appropriations and Financial Affairs

Bill "An Act to Appropriate Funds for Payment of Attorneys' Fees Awarded Against the State" (H. P. 1762) (Presented by Representative Kelleher of Bangor) (Cosponsor: Representative Soule of Westport)

Ordered Printed  
Sent up for concurrence.

##### Education

Bill "An Act to Limit the Increase in Secondary School Tuition Rates" (H. P. 1763) (Presented by Representative Callahan of Mechanic Falls) (Cosponsors: Representative Brown of Gorham and Senator Trafton of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed  
Sent up for concurrence.

#### House Reports of Committees Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans on Bill "An Act to Repeal the Law Requiring Adult Children to Care for Parents According to Ability" (H. P. 1392) (L. D. 1815) reporting "Ought to Pass" in New Draft (H. P. 1752) (L. D. 2314)

Signed:

Senators:

DOW of Kennebec  
TEAGUE of Somerset  
MINKOWSKY of Androscoggin

Representatives:

HICKEY of Augusta  
AINSWORTH of Yarmouth  
PARADIS of Old Town  
STEVENSON of Unity  
MAYO of Thomaston

LEHOUX of Biddeford  
TUTTLE of Sanford  
PERRY of Mexico  
THERIAULT of Fort Kent

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

Signed:

Representative:

WALKER of Skowhegan

Reports were read.

Representative Hickey of Augusta moved that the Majority "Ought to Pass" Report be accepted.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Walker.

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: The United States Senate has its prayer bill; we have our Fifth Commandment Bill. I am just asking you folks to slow down a little bit. Hopefully, you can forget it is a twelve to one report and make your decision based on the facts and not on what might happen in some hypothetical situation that will probably never occur.

I am just going to go over the facts of the bill as testimony and material were presented to our committee in hearing and work session.

First the bill, this section of Title 19 that is being repealed, 219, simply says that adult children should be responsible for indigent parents according to the ability of those adult children. Further, in the event that less than all children of the same indigent parents who have the means to do so fail to comply, then compliance may be sought before a court of law. Why remove this section?

Testimony at the hearing fell into two main categories, one that a commission in Washington is the Social Security Administration, I believe it is, had ruled that it was not necessarily illegal for a state to try to seek reimbursement for Medicaid payments made on behalf of recipients, provided that that state had a statute of general applicability that didn't just apply to Medicaid.

This ruling was permissible, it could be adopted, it didn't have to be adopted, and according to testimony, it had been adopted by one state, I believe it to be Idaho, where family members may be assessed anywhere from \$5 to \$75 for Medicaid payments for their parents. This was only if the children were able to do it.

Our Department of Human Services shows no interest whatsoever at present in doing this, considers this section of the law too general, didn't even send a representative to the hearing, because they said they would have to have much more specific legislation and they didn't believe this could be enforced anyway. It would cost more to enforce it than they would possibly get from this.

Even should the Department of Human Services have come to a different conclusion, there is no question about the fact that they can come to us at anytime, as witnessed today, we have a bill before us to do away with our medical catastrophe insurance in the state and they weren't too bashful to bring that up, and I am sure the Department of Human Services, anytime they need the money, will come to this legislature and ask to get it.

The committee voted 10 to 2 at this point in time to repeal this. However, new evidence turned up that we might be stepping on the toes of the municipalities, so we met with the Committee on Health and Institutional Services and eventually took testimony from general assistance officers of some of our municipalities. They testified that they were against the bill because this would remove an area where they were getting assistance from adult children, and that was in the burial of indigent parents. So anxious to comply, our committee said we would take care of that. We drafted an amendment, which is what we have before us today, which leaves this bill in a very curious posture.

Adult children don't have to provide shelter, they don't have to provide food, they don't have to provide any clothing, but they do have to bury the parents when they finally succumb.

At no time in any testimony was any evidence, or any testimony given, that anyone had ever suffered any harm because of this section of law.

My reasons for asking you to join me in opposition to this bill are several. One, since the bill has never harmed anyone, why does it need to be repealed? Two, this is a bill to protect adult children at the expense of the elderly, and are the adult children the ones that need the protection? I don't believe so. We are asking the indigent elderly to give up one layer of protection, now it may be slight but that is what we are asking, we are asking them to give up any layer of protection provided by their adult children. I just don't believe that is right.

Should we say that nowhere in the State of Maine should a child, no matter of what means, have any responsibility for a parent? I don't believe they should.

With our rush to push out legislation at this time of year, we know what it is. Some of it is good and some of it is bad. But I think that with each piece of legislation, whether we pass it or we reject it, we make a statement as to our feelings and just what we are. I don't know about the rest of you, but I know that this bill repealing all responsibility doesn't represent my feelings towards my parents when they were alive, and I can't believe it represents the feeling of very many people in this House toward their parents now or parents who have passed away.

Mr. Speaker, I ask for a division because I certainly don't want to vote for it.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: This bill came to us as a result of the Blaine House Conference on Aging. It came to light because of a recent reinterpretation of regulations by the Federal Health Care Financing Administration which would permit states to require that adult children of nursing home residents contribute to the financial support of their relatives as a backdoor means of cutting Medicare costs.

There are several problems associated with this practice. First, no research has indicated that imposing means tests upon families of institutionalized adults will yield additional large sums of money. Devices of making families pay by force of law can have substantial negative consequences such as forcing the elderly to forego health care altogether.

A 1980 study by the Health Care Financing Administration concluded that about all impaired persons are helped in a significant way by their families. The typical child care adult is not the stereotype 30 year old professional with an income of \$50,000. Most nursing home residents are in their late 80's and have adult children in their 60's who may be retired or on fixed incomes. Meanwhile, on fixed incomes themselves, or with children of college age, efforts to create systems to require adult children to pay would result in the creation of a new bureaucratic agency which would cost more to administer than it would ever hope to take in.

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

A vote of the House was taken.

64 having voted in the affirmative and 35 having voted in the negative, the motion did prevail.

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

**Divided Report**

Majority Report of the Committee on Labor on Bill "An Act Concerning Benefits Under the Unemployment Compensation Act" (H. P. 1552) (L. D. 2031) reporting "Ought to Pass" in New Draft (H. P. 1755) (L. D. 2315)

Signed:

Senators:

DUTREMBLE of York  
HAYES of Penobscot

Representatives:

BONNEY of Falmouth  
WILLEY of Hampden  
GAUVREAU of Lewiston  
SWAZEY of Bucksport  
TAMMARO of Baileyville  
BEAULIEU of Portland  
ROBINSON of Auburn  
NORTON of Biddeford

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

Signed:

Senator:

SEWALL of Lincoln

Representative:

ZIRNKILTON of Mount Desert

Reports were read.

On motion of Representative Beaulieu of Portland, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading the next legislative day.

**Divided Report**

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-539) on Bill "An Act to Assure Greater Independence to the Certificate of Need Advisory Committee and for Other Purposes" (H. P. 1481) (L. D. 1944)

Signed:

Senators:

BUSTIN of Kennebec  
GILL of Cumberland

Representatives:

BRODEUR of Auburn  
CARROLL of Gray  
PINES of Limestone  
RICHARD of Madison  
SEAVEY of Kennebunkport  
MAYBURY of Brewer  
WEBSTER of Farmington  
NELSON of Portland

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

Signed:

Senator:

CARPENTER of Aroostook

Representatives:

MELENDY of Rockland  
MANNING of Portland

Reports were read.

On motion of Representative Nelson of Portland, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-539) was read by the Clerk and adopted and the Bill assigned for second reading the next legislative day.

**Consent Calendar****First Day**

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

(S. P. 785) (L. D. 2111) Bill "An Act to Provide for Filling Vacancies in the Office of Presidential Electors Nominated by Petition" Committee on Election Laws reporting "Ought to Pass".

(S. P. 717) (L. D. 1963) Bill "An Act to Clarify Certain Provisions in the Recodification of the General Assistance Law" Committee on Health and Institutional Services reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-324).

(H. P. 1673) (L. D. 2218) Bill "An Act Authorizing an Adoption Assistance Compact and

Procedures for Interstate Services Payments" Committee on Health and Institutional Services reporting "Ought to Pass".

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, March 22, 1984 under the listing of Second Day.

**Consent Calendar  
Second Day**

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

(H. P. 1456) (L. D. 1908) Bill "An Act to Amend the Highway Transportation Reform Act" (C. "A" H-538)

(S. P. 816) (L. D. 2193) Bill "An Act to Clarify the Congregate Housing Program for Maine's Elderly" (C. "A" S-321)

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

**Passed to Be Engrossed  
As Amended**

Bill "An Act to Create the Judicial Employees Labor Relations Act" (Emergency) (H. P. 1649) (L. D. 2175)

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

Representative Beaulieu of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-545) was read by the Clerk.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: In the debate this morning when the issue of binding arbitration was raised before us, I contended that we had been assured and reassured constantly as a committee as a whole that there were no binding arbitration issues other than what was in current law.

Because the issues were raised, we held a series of meetings right after the session, rereviewed the whole issue again and found that indeed we had been misinformed and were working under the wrong assumption. To that end, this amendment before you is not being brought forward in order to quell once and for all the issue of binding arbitration on all issues. We have adopted what is in current statutes, the State Employees Labor Relations Act under the sections concerning arbitration.

I extend to you an apology for my misconception. I am pleased that the issue was raised once and for all, and now I believe and I am comfortable that we have made the changes necessary so that there will not be binding arbitration on all issues. We will still separate the issues, that there will not be binding recommendations made on salaries, pensions and insurance, and I ask you to please pass this bill.

The remaining issue before us on the floor now is, shall these public employees be granted collective bargaining rights that all of our other public employees currently enjoy.

Thereupon, House Amendment "A" was adopted.

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

Bill "An Act Relating to Changes in the Composition and Functioning of the Harness Racing Commission" (S. P. 801) (L. D. 2149) (C. "A" S-318 and S. "A" S-323)

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

**Emergency Measure  
Tabled and Assigned**

An Act to Amend the Provisions for Clam Regulation in the Unorganized Territories (H.

P. 1604) (L. D. 2129)

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

On motion of Representative Crowley of Stockton Springs, tabled pending passage to be enacted and assigned for Thursday, March 22.

**Emergency Measure**

An Act Concerning Terms of Office of Certain County Commissioners whose Districts are Affected by Reapportionment (S. P. 831) (L. D. 2222)

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. 122 voted in favor of the same and 1 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 Relating to Penobscot Nation Trust Land Designation (H. P. 1398) (L. D. 1821) (H. "A" H-523 to C. "A" H-498)

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

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, I would like to pose a question through the Chair. I am curious as to whether this legislation as presented will be expanding the Indian Lands Claim Agreement that was negotiated and passed through this body a few years ago, and wonder if we might be setting a dangerous precedent by passing this law so that in the future other land holdings might be given to the Indians. I would like to pose that question to someone who might be able to respond.

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

The Chair recognizes the gentleman from Old Town, Mr. Cashman.

Mr. CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, the bill that is before us for enactment has kind of a long history. The tribes have had a difficult time in negotiating the purchase of land within the designated territories as established by the Indian Lands Claim settlement that was passed through here several years ago.

They brought this problem to the attention of the State Tribal Commission, which recommended that the period of time which they were allowed to purchase lands within those designated areas be extended from January 1, 1983 to January 1, 1988. The Governor's Office had some reservations about extending the time period that far. The bill before us extends it to January 1, 1985, I believe it is, and that is the compromise that has been worked out between the sponsors of this bill, which are myself, Senator Pearson, and the Governor's Office and was approved by the Judiciary Committee. It does not extend the areas under which lands can be purchased, only the time limit under which they can be purchased.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, I would like to pose another question through the Chair. If I look at L. D. 1821, it appears to me that unless it has been amended, the addition of Williamsburg and other areas of the state have been added to the Indian holdings and I would like to know whether that is part of the legislation that was submitted.

The SPEAKER: The gentleman from Farmington, Mr. Webster, has posed an additional question to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Old Town, Mr. Cashman.

Mr. CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: Again, I am in error and

Mr. Webster is correct. We have added Williamsburg. That area was inadvertently left out of the original lands claim settlement that was passed through this House.

The Penobscot Nation has already purchased land in that area and I believe it was the original intent of the Lands Claim Act to include Williamsburg in the first place. This is just an effort to correct an error that was made in the original bill.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I am concerned somewhat about this inadvertent piece of land that might have been left out of this legislation originally when it passed a few years ago. I have nothing against and am not opposed to the Indians or anyone purchasing land anywhere in this state, but I am concerned about expanding the holdings of this nation under one nation, you might say. Some of us feel that passing this legislation gave the Indians a special right under this act to control areas of the state.

I am concerned that perhaps at some point there may be some effort to get land elsewhere in the state and have that included in the Indian Lands Claim area, and my concern is that by passing this and allowing Williamsburg and these other areas to fall within their boundaries, they are in essence taking this land away from the people of the State of Maine, at least the opportunity for them to use this land to hunt and fish because it will become part of the Indian "Nation."

My concern is that we should not be expanding the holdings of the Indian Lands Claim Act. We should let the Indians purchase any land they want anywhere in the state but that we should not be expanding their nation, you might say, so the rest of the people of the state would not be eligible to use that land under the holdings if they control it.

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

Mr. NADEAU: Mr. Speaker, could I ask the Clerk to read the Committee Report on this bill?

Whereupon, the Committee Report was read by the Clerk.

Mr. Webster of Farmington requested a Division.

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

Mr. CARRIER: Mr. Speaker, Members of the House: This bill came to the Judiciary Committee and we had it in committee for quite a while, and as liberal as I am, I was against this bill. I had the same reservations as Mr. Webster has because I figured if they wanted to be a nation, let them be a nation, and let's take off everything that we provide for them. However, I talked with the Honorable Representative, Mr. Sappier, and I had a different version by the time I got through with him. He was either very convincing or else I felt something inside that I could not control, I didn't cry but I was close to it.

Really, this bill is very simple. The way that I understand it is the fact that a lot of us were against extending the time for them to buy certain property. The bill originally, if I recall asked for a five year extension and some of us were not willing to go along with any at all. But as a matter of consideration, after talking and listening and not pleading but just giving us the facts, the fact is that as much as we hate to hear it, that particular tribe that he represents made some investments which might have been prudent investments at the time, but it turned out not to be that way. They bought a lot of land at certain places and they could not resell it on the market and get their money back at a profit. It just turned out to be a bad investment, so as the bill stands, we are giving them an extra year for them to try and get situated, if they can, and trade some of this land with the paper companies or others and maybe

put them in a better financial position at no cost to us.

The sad position that they are in is the fact that, maybe wisely but it did not turn out that way, they have spent all their allocation or all the money they got, that Indian Tribe, and there are three of them, I believe. They spent that money so they have no money now and even the extension as of the time we pass the bill, at least we put it out, they cannot do anything anyway because as far as I know they haven't got any money. But we are giving them a chance to expand, we have given them an extension for one year. It is up to them to recover and I am sure if they come back two years from now and we have the same liberal people in Judiciary Committee, they are going to have a hard time to get another extension.

Mr. Webster of Farmington was granted permission to speak a third time.

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I just state again that I am not opposed to the extension from 1983 to 1984 or, as far as that goes, I would not be opposed to extending this to 1988. I think the tribes should have the opportunity to purchase the land.

My only concern is—I am willing to let this measure pass on the assumption that the gentleman in the front row is correct and this was left out of the original agreement in error. My only concern is not the extension of time but the addition of more land and in no way does it say in here to me that this land would be purchased but it would be a gift to the Indian tribes. I am not concerned about extending the date, I am concerned that at some point we do not expand the land within their holdings unless there is some mechanism different than I see before me.

I have no problem with raising the time limit, my only concern is that we are setting a precedent and I am concerned about that and that is why I have taken this body's time tonight.

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

Mr. CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: Just to respond to the concerns of Mr. Webster, I don't think that we are running any great danger of endangering the fishing rights and the hunting rights of the people of the State of Maine in extending the lands claim or creating a nation within a nation or any of the other problems that he sees.

I think it should be remembered here that the Governor's Office has agreed that this section of territory, which is being allowed under the settlement act with this bill, was, in fact, inadvertently left out, that it was not just the mistaken impression of the tribes but also of the state that it was going to be in there. The tribes have already purchased the land in this area with that understanding.

This is a matter that has been reviewed by the Tribal Commission, by the Governor's Office, by the Judiciary Committee, as Mr. Carrier stated, and I think the concerns of Mr. Webster have been addressed by those people.

I didn't think that this bill would be heavily debated, I didn't think it was a major problem for the state. I do hope that you will support the bill on enactment because I don't think that the concerns expressed by the gentleman from Farmington are well placed.

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

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: Had you recognized me earlier, I think I could have ended this debate quite a lot sooner.

Williamsburg happens to be in my area and I have checked with the people of Williamsburg, the adjacent owners, and they have no problem with it. The only problem that they had a concern with and I have talked with Mr. Sappier and he assures me that there is no problem there, they asked me if in fact they were allowed to buy that land, that is hunting land

and they asked, would we have to pay for the privilege of a license to hunt or fish on the land. Mr. Sappier has assured me that all we would have to do is come to the Indian Nation and ask for a permit to hunt on the land and they would give it freely.

The SPEAKER: The Chair recognizes the gentleman from Penobscot Tribe, Mr. Sappier.

Mr. SAPIER: Mr. Speaker, Members of the House: Penobscot submitted the legislation and in submitting our legislation we have an entire system we go through at Penobscot to get the legislation here. In the meantime, after we get the legislation here, we then have to negotiate with the Governor's Office usually, the Tribal State Commission, which is made up of state individuals appointed by the Governor, and four Indian members from the Tribes. This legislation was submitted on the basis of their recommendations, the Tribal State Commission, to include Williamsburg and to extend the date for placing lands into trust up to five years. It would have been 1988. We, therefore, submitted legislation this year for 1988 and Williamsburg in two pieces of legislation. I think it was L. D. 1821 and 1822—1881 has consolidated both of those pieces of legislation, the time extension and Williamsburg.

In any case, the Penobscot Nation went out and purchased a 149,900 acres of land, of which 51,000 acres of it is in trust. We pay taxes on 98,000 acres of land. You might want to ask us, what does the tree growth tax do to us or fire suppression tax at 25 cents an acre do to us—it killed us this year.

The land that we are talking about here is land that is already owned in Williamsburg, 4,074 acres. Upon placing it in a trust, the Bureau of Indian Affairs is supposed to pick up the taxes on that parcel. We could sure use that break.

We asked that the extension of the time limit be supported as well as Williamsburg be supported in this legislation. We need at least up to 1987, and we believe ten years, to try to get 98,000 acres swapped into trust territory. We are not adding new lands into trust territory, it is those designated parcels.

The SPEAKER: The Chair will order a vote. The pending question before the House is on passage to be enacted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

109 having voted in the affirmative and none in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Enactor Reconsidered

An Act Concerning Tax Exempt Status of Property Owned by the Farmington Village Corporation (H. P. 1561) (L. D. 2063) (H. "A" H-514)

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

On motion of Mr. Armstrong of Wilton, under suspension of the rules of the House reconsidered its action whereby the Bill was passed to be engrossed as amended by House Amendment "A".

The same gentleman offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-541) was read by the Clerk and adopted.

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

#### Enactor Tabled and Assigned

An Act Concerning the Open Burning of Leaves and Brush (H. P. 1422) (L. D. 1867) (S. "A" S-302; H. "A" H-508)

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

The SPEAKER: The Chair recognizes the gen-

tleman from Pittsfield, Mr. McGowan.

Mr. MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: During this bill's travels through the legislature, there has been some legal inconsistencies arise and I would ask that someone table this for one legislative day so that we may amend this bill to make those inconsistencies correct.

On motion of Mr. Diamond of Bangor, tabled pending passage to be enacted and assigned for Thursday, March 22nd.

#### Passed to be Enacted

An Act to Exempt Nonprofit Emergency Feeding Organizations from the Sales Tax (H. P. 1591) (L. D. 2101) (S. "A" S-314)

An Act Concerning Hazardous Materials Control (H. P. 1666) (L. D. 2198) (H. "A" H-515)

An Act to Amend the Charters of Various Sewer and Water Districts Organized under the Private and Special Laws, including the Paris Utility District (H. P. 1685) (L. D. 2223)

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.

On motion of Representative Diamond of Bangor, the House reconsidered its action whereby An Act Concerning Hazardous Materials Control, House Paper 1666, L. D. 2198, was passed to be enacted.

On motion of the same gentleman, tabled pending passage to be enacted and assigned for Thursday, March 22.

An Act to Give the Department of Marine Resources the Authority to Charge Fees for Lobster Trap Tags (H. P. 1709) (L. D. 2237)

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

On motion of Mr. Crowley of Stockton Springs, tabled pending passage to be enacted and assigned for Thursday, March 22.

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

The Chair laid before the House the following matter:

Bill "An Act to Allow Access to Financial Records of Public Assistance Recipients" (S. P. 852) (L. D. 2310) which was tabled and later today assigned pending reference.

In Senate, Bill referred to the Committee on Health and Institutional Services.

On motion of Mrs. Nelson of Portland, the Bill was referred to the Committee on Judiciary in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter:

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) (C "A" H-427) which was tabled and later today assigned pending passage to be engrossed.

On motion of Mr. Crowley of Stockton Springs, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" (H-542) to Committee Amendment "A" (H-427) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The SPEAKER: The Chair recognizes the gentleman from Franklin, Mr. Connors.

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: I speak in opposition to this bill for a number of reasons. My constituents, however, have outlined six reasons to

their opposition and I will relay these to you. These people are not the purse seine fishermen who have received most of the public's attention but the weir fishermen who are battling to save a way of life and a resource for Washington County.

Representative Vose of Eastport says that he brought this legislation to you to save jobs for the people of Washington County. My constituents say that it is not a lack of herring that keeps the plants closed but a managerial problem brought on by poor marketing techniques. If large quantities of fish were purse seined in Washington County, chances are that much of that fish would be taken to mid-coastal ports for processing or even sold to Canada. The fish would not stay in Washington County because of an over supply.

I am also opposed to this bill for conservation reasons. In 1969, when this ban on purse seining went into effect, one of the main reasons was to conserve a resource that is declining steadily. Washington County is known as one of the last breeding areas for the herring left on the Maine coast. The herring come to the protected coves and inlets to spawn. While the herring remain off shore in other areas of Maine, they come to the inshore waters of Washington County to breed. If purse seining is allowed, these breeding fish will be taken before being given a chance to spawn and continue a resource that is essential to eastern Maine economy.

Another reason for the ban placed in effect in 1969 was to prevent the possibility of a gear conflict between the fixed gear fishermen, these stop seines and weirs, and the mobile gear fishermen purse seiners.

Some of you may be familiar with the gear conflict situation between lobster fishermen and scallop fishermen in eastern Washington County. Many of my constituents feel that it is very likely that a similar conflict could erupt between the fixed gear and the mobile fishermen chasing the herring.

The Maine Lobstermen's Association saw 13 of its board members unanimously vote to support the Maine Weirmen's Association and oppose the lifting of the ban on purse seining. Enforcement of this bill will be almost impossible to maintain. In the area of Washington County where many of the weirs are located, there is only one marine patrol warden who is equipped with a small aluminum boat with an outboard engine, hardly what one would call a force for making sure that people obey the law. While a 2,000 foot buffer zone around the weirs has been written in to this bill, it is common knowledge that after a purse seiner encloses a net full of fish, that boat will drift and it is always possible that another school of fish could be found as that boat is drifting toward the weir.

While it is comforting to see the legislature this concerned about the fishing industry in Washington County, let me remind you that ultimately the Commissioner of the Department of Marine Resources can make this decision. He has the power to open or close an area to any type of fishing as witnessed by the emergency action he took late last summer to open Washington County to purse seining. Perhaps we should stand aside and allow the Commissioner to do his job without enacting something that he already has the authority to do.

This bill would only assist a minority of the herring fishermen in Washington County. The weir fishermen who are not being heard here and feel that it is wrong to cast your vote while listening only to a handful of purse seine fishermen in Eastport. The weir fishermen are now speaking out of order to prevent the end of a way of life.

These fishermen have learned the weir fishing trade from their fathers and their grandfathers. They have gone out and cut the stakes, bought the twine and constructed the weirs and labored through many tough fishing years.

It may not be the easiest life but it is a life they have chosen and they are proud to carry on one of the oldest fishing traditions on the Maine coast.

I do not feel that it is fair to listen to a small handful of fishermen who have skillfully manipulated their legislature to present this bill to you. The vast majority of herring fishermen in Washington County are opposed to this bill and they appeal to you to keep their way of life in consideration when thinking about your vote. My constituents and I appeal to you to vote no on L. D. 1991 and send your message to support to the weir fishermen of Washington County.

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

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I dislike disagreeing with my friend Representative Connors today. He belongs to the Inland Fisheries and Wildlife and Marine Resources Committee that have been kicked around all day here so he is getting double duty.

On this bill, in the first session of the 111th legislature, we passed legislation putting a moratorium on further licensing of new weirs for a period of one year while the committee studied weir fishing, stop seining, purse seining in Washington County. This bill deals with the 4,000 foot protective circle around the weirs. It deals with identifying coves near weirs and the rights of the weir owner and other fishermen. It deals with the licensing of weirs and it removes the prohibition of purse seining in Washington County effective 90 days after this session ends.

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

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: First off I think I should explain what we are talking about here. There are three methods of fishing for herring in the State of Maine, one being a weir, and a weir is like a fishtrap. It is generally circular in structure with sort of a leader coming into it where the fish go into the weir, it simply sits there and waits for the fish to come.

The second method of fishing is what is known as stop seining. Now stop seining is when a school of fish comes into a cove or whatever and they close that cove off by stretching the net across that cove and then they go in and get those fish. Now these two methods of fishing will by far give you the best quality fish.

There is a third method and it is called purse seining. Those of you that have noticed back in the old days where you had a purse, you put some money into it and then you pull it up tight. You turn that upside down and what they do is they go out into a school of fish and they put that net around those fish and then they close it up and pull the bottom tight; therefore, they have captured some fish.

Let's get right back to how this particular ban in purse seining became law, and I quote, not myself, but I quote the very person in the paper, the Bangor Daily News, that says: "I saw a school of fish about five miles from my weir and I thought those fish were coming into my weir and a purse seiner got into those fish; therefore, I don't want any purse seiner around." So this person and a stop seiner who worked with him went to Senator Hollis Wyman and said, "look, we do not need any purse seiners in Washington County." Senator Wyman came down and he put a bill in with no debate and he effectively closed off one of the three avenues of fishing that we have for herring and therefore deprived Washington County of one of those avenues of fishing. That is why we are here today.

Now let's talk about why I put the bill in. I have been accused of listening to just a few and not listening to these people. They knew, and I put it in the paper, that I was going to ask for this amendment to be put on. I did so in committee and in committee every single one that



has testified repeatedly against the lifting of this ban were down there in force and we heard the same old rhetoric. We are going out of business, we are doing that, but the one thing they forgot about, the biggest thing of all, is the people in my county, in my district, that were not working, they just were not working. Why? Because they could not go out and purse seine the fish that were there, that is why.

Mr. Connors represents Milbridge, and rightly so, he is doing a good job of it. Milbridge won one area and Machiasport, they made their unemployment, those people were working down there. Why? Because Lawrence Ray, the son of Ida Ray, the owner of the factory, went over into Hancock County at Desert Island, took his purse seiner and got purse seine fish and brought it back over and they worked but my people did not work, not down in my district, and I am talking about three factories. They ask me if I am representing somebody.

The city council of Eastport voted in favor of this bill. I have a letter here and I will be kind enough to explain part of it. It says: "Dear Harry: The following is a listing of those fishermen who own or operate fish weirs and are not opposed to L. D. 1991 and its amendment." Now it lists a few people, I am not going to name all the names. They comprise owners that have 40 weirs here. There is one in question and I will use a name here because with Mr. Maynard Morrison there is some question. Representative Connors did, in fact, get a phone call that he says he wasn't; David Turner, the writer of the letter, says he is; therefore, we are talking about 40 weirs and there are 70 weirs so do not tell me about the majority.

The thing that I am concerned about is the fishermen in my county are charged with the supply of fish to the factories. The industry is important and I am talking about 600 packers that pack fish not including the other people that work on those weirs and not including the spinoffs that are caused by the merchants.

Once again I was accused in the paper that I like to hear whistles blow. Well yes, I do, I will tell you about a whistle—there are two whistles in my town, one known as the Jumbo, and as a child I remember that the most because that used to tell us when we didn't have school, that was very important to me at that stage of the game. The other was the whistle at the factories and when those whistles blew, I knew that people were going down there and going to work, that was important. Now what do we have? When I was campaigning last time for election, I went door to door in Lubec and in Eastport and I had, and this is the first time I think that the little old lady is going to be brought into the legislature that almost always shows up and she is going to show up on this one. She said to me and I am telling you straight out, and there were many of them, "What the dickens am I going to do because I have not been able to earn my quarters?" Now let's face the quarters.

I put in legislation that was passed by this legislature, you people passed it, allowing the Commissioner, who incidentally supports this bill, to open up purse seining on an emergency basis. These weirmen who are very, very concerned about the workers in the factories, at least I think they are, went down in force in 1982 when a Mr. Ron Green of Port Clyde wanted to open up the fisheries, wanted to open up the purse seining because he did not have a supply of fish to open his factory down there at Holmes. Holmes Factory is in Eastport. Who was down there in force opposing that? You guessed it—the weirmen.

In 1983, we once again went at it, gave him a little bit more flexibility and this time finally it was opened and the article in the paper says: "Too little, too late." The reason being, they did not get enough fish there and my people did not earn enough quarters to earn their unemployment. I am talking about packers, I am

talking about those little people. They cannot afford to be out there lobbying you people. They are lucky if they have enough money to keep their homes this year, that is who I am down here talking about.

They say, Harry, you are committing political suicide, well maybe I am but I do not think so. I think I am representing a majority of those people and that is what I am down here for.

This summer, if you people pass this bill, you will not cut off the three avenues of supplying fish to my factories and I have three out of six and I understand under the reapportionment there will be four, you will not be cutting them off; this time, if there are fish out there, we will get them and we will work and those people will work and it would mean a heck of a lot more to me whether the weirmen get it, whether the purse seiners or the stop seiners. Where can you coexist? The rest of the State of Maine. Stop seiners and purse seiners have coexisted and as a matter of fact, up until 1969, they did in my county and they ought to again.

The Commissioner has said that he will handle it and I believe so. Conservation? Absolutely incorrect. There is a present rule and regulation that if 20 percent of your fish have sperm, you cannot take them and that regulation is going to go into effect pretty shortly on both weirs and stop seines. The Commissioner is right on top of it. We are not going to lose anything. Maybe, just maybe, there may be a weirman who just does not get the fish but on the same token, the factory owners control that, don't think they don't. The control what fish they take. If there is a school of fish out there and it looks like they might come into a weir, which is done in the western part of the county, they are going to say to that purse seiner, no, no, no, you leave them alone because we would rather have that because they are a better fish.

Also, when I told you about Lawrence Ray going out, I think it is Mt. Desert Island, and getting those fish in Hancock County where there is no ban, how come he can't get it from Eastport? I got news for you, in the summer time and you have a temperature from 60 to 80 degrees and you try to travel that distance with fish from down there, if any of you have ever smelled one rotten fish in a barrel, you know what I am talking about because by the time they get up to where my factories are, this is just what you've got, bad fish.

I hope that you will go along with the 11-2 report from my committee. I think we have done a good job, we have worked on it and I hope that you will support us.

The SPEAKER: The Chair recognizes the gentleman from East Machias, Mr. Randall.

Mr. RANDALL: Mr. Speaker, Ladies and Gentlemen of the House: I rise this afternoon to speak in opposition to this legislation which is now proposed. I would like to share a few experiences with you, experiences which I have had in the course of the last couple of weeks which I feel has pretty well informed me on the status of this legislation.

Perhaps I should begin by sharing with you some comments from various groups in Washington County. I would begin with a Resolution that was passed by the Washington County Democratic Committee on March 11, 1984 with 40 people voting. Thirty-eight opposed this bill and two supported it. The Republican County Committee in Washington County had a meeting a day later and opposed this legislation 39 to 0. The Resolution reads as follows:

"Whereas, there are approximately 70 licensed weirs in Washington County; whereas, Washington County weir fishermen are presently protected from purse seiners by the laws of Maine; whereas, weir fishermen have invested thousands of dollars and many hours of hard work in good faith with the knowledge that their investment is protected by the statutes of the State of Maine and whereas weir

fishing is more conservation oriented and puts no undue strain on herring resources; whereas, purse seining by its nature creates conflict with the gear of lobster fishermen and whereas lifting the ban on purse seining in Washington County constitutes a clear and eminent threat to the existence of a way of life and economic survival for weir fishermen and lobster fishermen; Therefore, be it Resolved, that the Washington County Committees urge the 111th Legislature to reject any effort to repeal this law."

One of the things I would like to point out at this time is that the law we are discussing today on the books allows Washington County to be exempt from being purse seined. The law is working the way it is, the ban has been in effect for almost 15 years. People in Washington County by and large are very content with the way the law stands and it seems to me that in this emergency session of the legislature, it does not make sense to tamper with something at the very last minute which appears does not need tampering with.

I would also like to point out that you might have gotten the impression from previous speakers that the people who are upset about this bill are somehow prosperous and wealthy. This is not the case. I have attended two meetings in Washington County on this bill and the folks who show up are those folks who may have invested \$1,500 to \$3,000 on a weir, perhaps they own half an ownership in it. This is an interest which they would like to pursue, it is a tradition which has perhaps been in their families and it does seem to me to be a shame today for us to rush another law through this legislature which is unneeded and uncalled for.

I would urge you to vote against this bill.

The SPEAKER: The Chair recognizes the gentleman from Bar Harbor, Mr. Salisbury.

Mr. SALSBURY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to correct one point of misconception that has been going on about this all along. I join Mr. Connors and Mr. Randall in trying to defeat this bill. But all during the testimony and all the hearings that we have had on this issue, the one issue that the gentleman from Eastport keeps bringing up is employment.

Down in Milbridge about ten days ago they had a meeting and I went along with Mr. Connors and at that meeting one of the largest purse seiners in Washington County admitted to us that when he purse seined, he did not sell his fish in Washington County to the factories. Certainly that does not help the unemployment situation in Washington County. It may help the unemployment down in Rockland because that is where this gentleman stated he hauled his fish, so opening this up to purse seiners is not going to help the unemployment in Washington County as far as I can see it.

There certainly is enough evidence that the weir fish is a quality fish and we do not want to give up our quality.

Mr. Speaker, I would ask for a roll call.

The SPEAKER: A roll call is requested.

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

Mr. SCARPINO: Mr. Speaker, Men and Women of the House: After last night, I did not really want to get involved with this one but it has come to a point where I feel that I have to.

I have heard a number of statements made about gear conflict and the Commissioner being able to reopen and I do not think they really quite say what the existing situation is.

Representative Vose mentioned the bill that we passed out in the last session that would allow the Commissioner to react more rapidly in a five day period to open Washington County to purse seiners. Well lo and behold, this year was the first time that we had an opportunity to see if it would work. By the time the information came, there was no fish available in this state. There was none in the western or



midcoast sections of the state, there was none available in Washington County although there were fish there. By the time the Commissioner got the information, published the hearing date, went through the five day waiting period for the hearing and came up with a decision to allow the purse seiners to fish, that was wonderful, the only trouble was, the fish did not wait for the Commissioner and they were up in Canada. The fish that we got back were the fish that Connors Brothers in Black Harbor could not process and sold back to us on the American side. So the existing mechanism that we have—because fish will not wait around for an administrative process—doesn't work fast enough.

We have heard talk of conservation. Well, I will accept this law having gone in 1968 for conservation because things were much different then, herring seining was unregulated industry. You could go and put your purse out and take as many fish as you wanted, do whatever you wanted to do with them. Since that time, we have got a number of regulations around. One, the only thing that herring can be used for in this state is human consumption. The only way they get into fish meal or mash use is if for some reason those fish caught for human consumption get condemned because they cannot be packed for the cuttings. They come from the heads and tails when they pack the fish, that is the only way they can get into fish meal. We have regulations now that protect brit herring, what the fishermen call brit, it is a juvenile herring that are too small to pack but could be used for fishmeal. We have a regulation that just went into effect at the end of last year that protects the adult herring, what they call the sea run herring, the herring over nine inches, the herring that spawns.

The Department of Marine Resources has in place a herring management plan that annually closes specific areas throughout the state that are known to be the spawning areas to the herring. So while there may have been reasoning, there may have been a real concern in 1969 to close Washington County to preserve the stock. The Department of Marine Resources, through regulations, has provided more than enough means to preserve the stock or guarantee the stock.

A little further on conservation is that the commissioner, if he does so desire, if we pass this bill out and it goes into law in July, the day after, if the commissioner desires, he can hold a regulatory hearing to close all of Washington down for conservation if conservation is the issue.

Let's deal with the gear conflict. We just recently passed legislation through this body directly as a result of last November's conflict in Machias Bay between the draggers and the lobster fishermen that enables the commissioner by regulation on signature, with no public hearing, to cease or close any area to any fishery due to a gear conflict. That is how quick, if there is a gear conflict, it can be resolved, as quick as Commissioner Apollonio can sign his name on a piece of paper.

I heard comments of the Republican committee and the Democratic committee in Washington County coming out opposed to this bill. Well, I don't know how many people are on those two committees in Washington County, but I have got a rough idea of how many Republicans and Democrats are in this House, and I am going to sit here and ask each one of you to ask yourselves a question, and that question is, how much do you really know about what goes on in the fisheries? Then what I will say is, probably those people on those two committees don't know much more than the rest of us do.

Now, the MLA has come out in opposition to this bill, their directors have come out in opposition to this bill. Well, I am a member of the MLA, I am rank and file MLA, and I never received any communication from my leadership.

I never was asked, do I support this or should our organization support this.

I would like to remind you that just a couple weeks ago we had an agreement signed by the Draggers' Association, Mr. Jim Salsbury, and the Lobstermen's Association, Mr. Ed. Blackmore, in front of the Marine Resources Committee and the next day throughout the Maine Lobstermen's Association holy heck broke loose because the only people that supported it were the people that signed it. They hadn't contacted the rank and file; the rank and file were flat opposed to it.

I am going to ask the same question. While I haven't been home for a couple of days, I might have had a letter come to my mailbox asking if I supported this, but to my knowledge there has been no contact with the rank and file as to whether they do in fact support this.

The comment that this is a last minute action, this started in the beginning of the first session of the 111th and we put it out to study order. We held hearings in committee and we held hearings on the coast, and we inspected weirs and we talked to weir fishermen and we talked to purse seiners and we talked to stop seiners. This is anything but a last minute operation. There has been very many hours of hard work and conflict within the committee and compromise to get to what we have got to. This is not a hasty or an ill-considered matter.

Just finally, to talk about all the fish going to the mid coast, that it won't provide work for Washington County—I personally would hope some of those fish would come to the mid coast, but let me explain some of the problems in a little more technical term than Mr. Vose did.

Right now there is only one company on the coast of Maine, and that is Port Clyde Packing, they are not even refrigerated, they are slush cooled carriers, and the carriers carry herring and moves it from where it is bought to the factory. Of their five carriers, only two of them have the slush cooling in them. If a herring reaches a temperature that I believe is above 42 degrees, it starts getting very intense bacterial action and in five or six hours, and it will take longer to transport by boat from Washington County to Rockland, to the mid coast area, five or six hours those fish would be spoiled to a point where they would be condemned. The only thing they could be used for is fish meal. That is a loss to the plant, it is a loss to the boat operator. They are not going to take that risk. They are not going to run those fish if they are going to lose the fish. They are not going to catch them if they don't have a market for them. If they have a market for them in Washington County, they will take them there.

I would personally hope that one or two of those boatloads with those slush pool systems in them would come down to Rockland and to keep some of our people working down there also, but the simple fact of it is that the greatest amount of those fish, just because of the type of vessels we have to carry them in this state, mandate that the only place it is going to go, at least during the summer months, is into Washington County.

Just one last thing, I can't resist it. My com-patriot sitting behind me mentioned that the fishermen that had talked to him weren't prosperous or wealthy. Well, I am a fisherman and in my entire experience with fishermen, whether they were or they weren't, I have never heard one that would admit to being either prosperous or wealthy.

The SPEAKER: The Chair recognizes the gentlewoman from Edgcomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker and Members of the House: I will be very brief with this, but there is one issue here that has not been addressed this evening. This Committee on Marine Resources has been extremely sincere in attempting to review Maine's coastline in an effort to balance out the inequities that exist in giving one type of fishing preference over the other.

We have a fixed gear, which is weirs, lobster traps, stop seines and gill nets, and we have a mobile gear which consists of purse seiners and draggers.

The committee recognizes that we have an obligation to protect all the natural resources and conserve for future generations the clams, lobsters, groundfish, scallops, and even that lowly pogy that we talked about last night.

The state coastline is like a jigsaw puzzle. There are different laws for different people and different places. This bill, hopefully, will address some of these problems. We are simply trying to create some uniformity to the coastline for better enforcement, some equality and hopefully less conflict. This needs to be addressed and I hope that you will give the majority report of the Marine Resources Committee the votes that are required to carry out that which we consider our highest priority.

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 passage to be engrossed as amended by Committee Amendment "A" (H-527) as amended by House Amendment "A" (H-542) thereto. All those in favor will vote yes; those opposed will vote no.

#### Roll Call No. 388

YEA—Allen, Anderson, Beaulieu, Bell, Benoit, Bost, Brannigan, Brodeur, Callahan, Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Clark, Cooper, Cote, Cox, Crowley, Daggett, Day, Dexter, Diamond, Drinkwater, Dudley, Erwin, Gauvreau, Greenlaw, Gwadosky, Hayden, Hickey, Higgins, H.C.; Holloway, Joyce, Kane, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, MacEachern, Mahany, Manning, Martin, H.C.; Master-ton, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McGowan, McHenry, McSweeney, Melendy, Michael, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nelson, Norton, Parent, Paul, Perry, Pouliot, Racine, Ridley, Roberts, Rotondi, Scarpino, Sherburne, Soucy, Stevens, Stover, Strout, Tammara, Telow, Theriault, Tuttle, Vose, Webster.

NAY—Armstrong, Bonney, Bott, Brown, A.K.; Connors, Crouse, Curtis, Davis, Foster, Handy, Higgins, L.M.; Ingraham, Jackson, Locke, MacBride, Macomber, Masterman, McColister, McPherson, Michaud, Murphy, E.M.; Paradis, E.J.; Perkins, Pines, Randall, Reeves, J.W.; Reeves, P.; Robinson, Roderick, Rolde, Salsbury, Seavey, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Swazey, Walker, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Ainsworth, Andrews, Baker, Brown, D.N.; Cahill, Chonko, Conary, Connolly, Dillenback, Hall, Hobbins, Jacques, Jalbert, Joseph, Kelleher, Martin, A.C.; Murphy, T.W.; Nadeau, Paradis, P.E.; Richard, Soule, Thompson, The Speaker.

85 having voted in the affirmative and 43 in the negative, with 23 being absent, the motion did prevail.

Sent up for concurrence.

The Chair laid before the House the following matter:

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) (C. "A" H-530) which was tabled and later today assigned pending the motion of Representative Carrier of Westbrook that the Bill and all its accompanying papers be indefinitely postponed.

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

Mr. GAUVREAU: Mr. Speaker, Men and Women of the House: L. D. 1872 before you is my bill. I put the bill in initially to address a very narrow concern of mine, and that dealt with a somewhat anomalous situation where a lot of people accused of operating under the influ-

ence would be given minimum mandatory fines whether or not the offense was classified as a civil offense or a criminal offense. I might by way of background just update you as far as the law in this regard.

If a person is found to have committed the civil offense of operating under the influence, he or she must pay a minimum mandatory fine of \$250, which fine shall not be suspended. The court can fine up to \$500.

With respect to criminal violations of operating under the influence, the courts must assess a two day or 48 hour jail sentence and also must impose a mandatory minimum fine of \$350. Again, that fine may not be suspended.

The problem I had with the practice is twofold. First of all, many indigent people, people who lack resources even to retain counsel, simply didn't have the assets or money to pay the fines in full. So what happens, as a practical matter their case is postponed two, three, four, five or six times over the period of a year or two. Many of the fines, in fact, are uncollectible, and I submit to you that the court system spends more money trying to pursue collection of the fines than they would eventually receive after the entire collection process runs its somewhat frustrating course.

The second concern I had was that if a person is truly indigent and qualifies for a court appointed counsel because they can't afford to retain counsel, it is somewhat anomalous for us to appoint at state expense a lawyer because they can't afford to hire a lawyer and, on the other hand, say you have got to pay a fine and we don't care if you can pay the fine or not, you have got to pay it. That was the narrow problem I was trying to address.

The committee amended the bill, and I agree with the amendment, to allow in the discretion of the presiding judge or justice in appropriate cases to order an offender to perform public service work in lieu of paying such a mandatory fine. It is my experience that many people who are found guilty of operating under the influence statutes have ample resources to pay a fine, and for those people paying a fine is really not much of a deterrent at all. In fact, we find them on the roads again operating under the influence.

It was for these reasons that the committee decided in appropriate circumstance that the court should have authority to order convicted individuals to perform public service work in lieu of paying their mandatory fines.

If you will think for a moment, there are many appropriate settings for this public service work. For example, a convicted motorist might be required to work, let's say, in a hospital, might be required to work for a rescue service to see first hand the type of devastation which their acts has caused.

This is a very serious problem. I would point your attention to the experience we have had with violations of our so-called drunk driving laws since we tightened them last session. The first few months there was a substantial decrease in alcohol-related fatalities, and there seemed to be also a decrease, a welcomed decrease, in motorists who were operating under the influence. However, in recent months that trend has declined, and a point of fact, once again we find that motorists are increasingly taking to the highways ignoring our operating under the influence statutes. I would point out that in my view allowing a court, in appropriate circumstances, discretion to require a convicted individual to perform public service work might well have some deterrent value and also might in fact dissuade that person from committing future offenses, and it might just save some lives.

For these reasons, I fully support this L. D. and I would urge you today to vote in opposition to the pending motion. The pending motion is indefinite postponement of this L. D. I would also request that when the vote is taken, that a division be ordered.

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

Mr. MACOMBER: Mr. Speaker, I would like to pose a question to the young gentleman from Lewiston who just spoke. What exactly is the definition of an indigent person. If a person can afford to buy a car, if he can afford to buy the liquor to get drunk, is that person truly indigent?

The SPEAKER: The gentleman from South Portland, Mr. Macomber, has posed a question through the Chair to the gentleman from Lewiston, Mr. Gauvreau, who may respond if he so desires, and the Chair recognizes that gentleman.

Mr. GAUVREAU: Mr. Speaker, Men and Women of the House: Under our law, a person is defined as indigent if he or she lacks the requisite financial resources to pay a specific bill in question. The question ordinarily is whether or not that individual can afford to retain counsel, and the court does require the individual to submit to the court a sworn affidavit outlining specifically what assets and resources that person has to retain counsel. And that inquiry would certainly have to be undertaken under this act also to determine whether or not an indigent individual should be excused from the requirement of paying a fine in order to perform public service work instead.

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

Mr. MACOMBER: Mr. Speaker, I would like to pose one more question to the same gentleman. In the case of injury, perhaps if this person is working in my town or your town, who is responsible?

The SPEAKER: The gentleman from South Portland, Mr. Macomber, has posed a question through the Chair to the gentleman from Lewiston, Mr. Gauvreau, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. GAUVREAU: Mr. Speaker, Men and Women of the House: If I understand the good gentleman's inquiry, I believe he is referring to underlying questions of insurance and what-not pertaining to public service programs. That is a problem. In fact, we have found that some courts are reluctant to expand public service work, or rather some employers are reluctant to take individuals under the public service work program because of unresolved questions of liability. That problem is not going to be resolved or addressed at all in this particular legislation. I would submit to you simply that those employers who are satisfied with their liability insurance and have taken out insurance to resolve those questions will certainly take part or will be eligible for public service work programs.

There again, the court, in determining whether public service work is appropriate, certainly would be appraised of that situation, and no employer would come forth if that employer didn't have the requisite liability insurance to deal with the situation.

Representative Gauvreau of Lewiston requested 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 the gentleman from Westbrook, Mr. Carrier, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 389

YEA—Anderson, Armstrong, Bonney, Brown, A.K.; Callahan, Carrier, Carroll, G.A.; Carter, Clark, Cote, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Dudley, Erwin, Hickey, Higgins, H.C.; Higgins, L.M.; Jackson,

Kelly, Ketover, Kilcoyne, Lebowitz, Lehoux, MacEachern, Macomber, Manning, Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McGowan, McPherson, McSweeney, Melendy, Michael, Michaud, Moholland, Murphy, E.M.; Norton, Paradis, E.J.; Parent, Paul, Perkins, Perry, Randall, Reeves, J.W.; Ridley, Roberts, Robinson, Roderick, Rotondi, Salisbury, Scarpino, Seavey, Sherburne, Small, Smith, C. W.; Soucy, Sproul, Stevenson, Stover, Strout, Swazey, Tammara, Telow, Vose, Walker, Webster, Wentworth, Willey, The Speaker.

NAY—Allen, Beaulieu, Bell, Benoit, Bost, Bott, Brannigan, Brodeur, Carroll, D.P.; Cashman, Chonko, Connors, Cooper, Cox, Crouse, Diamond, Drinkwater, Foster, Gauvreau, Greenlaw, Gwadosky, Handy, Hayden, Holloway, Ingraham, Joyce, Kane, Kiesman, LaPlante, Lisnik, Livesay, Locke, MacBride, Mahany, Matthews, Z.E.; Mayo, McHenry, Mills, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Pines, Pouliot, Reeves, P.; Rolde, Smith, C.B.; Stevens, Theriault, Tuttle, Zirkilton.

ABSENT—Ainsworth, Andrews, Baker, Brown, D.N.; Cahill, Conary, Connolly, Hall, Hobbins, Jacques, Jalbert, Joseph, Kelleher, Martin, A.C.; Murphy, T.W.; Paradis, P.E.; Racine, Richard, Soule, Thompson, Weymouth.

78 having voted in the affirmative and 52 in the negative, with 21 being absent, the motion did prevail.

Sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act Concerning Maine Farm Wineries" (S.P. 787) (L.D. 2113) (C. "A" S-319) which was tabled and later today assigned pending passage to be engrossed as amended in concurrence.

Representative Cox of Brewer offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-547) was read by the Clerk and adopted.

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

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT—Majority (8) "Ought Not to Pass"—(Minority (5) "Ought to Pass"—Committee on Labor on Bill "An Act Establishing the Emergency Service Personnel Arbitration Act" (H. P. 1299) (L. D. 1724) which was tabled and later today assigned pending motion of Representative Beaulieu of Portland to accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Bonney.

Mr. BONNEY: Mr. Speaker, Ladies and Gentlemen of the House: This bill and its title, there is one word missing—An Act Establishing the Emergency Service Personnel Arbitration Act. What is involved here is binding arbitration, and what does that mean? It means someone, usually from another state, is going to set pay rates and increase taxes in your town without you having any say whatsoever in this matter. The arbitrator is taking away your rights as a citizen. You don't want this to happen and neither do I.

The business agent of the union involved is supposed to negotiate a contract for you and this is his job. He is paid to do this. If this business agent can't negotiate the contract, he should be replaced by another agent, not replaced by an arbitrator. Why should you pay two people to do the same job? You are giving away your rights as a citizen to your towns when you bring in an arbitrator.

There is no demonstrated need for arbitration in accordance with the Maine Municipal Association. There are some pretty fancy words here but I am going to read them.

"It is apparent that your statutory scheme

which is designed to provide a methodology for the peaceful and orderly resolution of labor disputes is working; therefore, binding arbitration is unnecessary.

"Binding arbitration would be a state mandate which would shift budgetary control over a major portion of municipal expenditures from municipal officers to an arbitrator who has no accountability to the general public.

"There is also serious questions that binding arbitration may be unconstitutional delegating the legislative authority. An increased number of state courts are coming to the conclusion that binding arbitration is an unconstitutional delegation of legislative authority and is a denial of the Equal Protection Clause of the United States Constitution allowing citizens to cast effective votes and to have governmental decisions made by their elected representatives."

I ask you to vote with the Majority "Ought Not to Pass" and I ask for a roll call.

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 Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I think that I must, as a signer of the minority "ought to pass" report, speak in favor of the bill.

It is a binding arbitration bill. It is a limited binding arbitration bill that deals with the issues of public safety officials, firefighters, police and those who work under them, ambulance workers as well as dispatchers.

This is an issue that has been before this body continually. It is the desire of the firefighters and the police officers who are involved in the negotiating processes who see themselves held in abeyance from instances for over 18 months because the city will not agree to issue protective helmets. I have seen that happen in my own community.

Several times throughout the state we have seen public service personnel get to the point of frustration where they wind up in informational picket lines and very close to strikes, even though it is illegal.

Constantly over my career in this body and as a member of the Labor Committee I have dealt with this issue, I have pushed for this issue and I have said that one of these days we are going to wind up with strikes by these people, through no fault of their own, because they are being pushed to the limit.

I do factfinding occasionally. I happen to work quite often as the employee rep for these particular bodies and I can't begin to tell you some of the problems that go on in the field that simply have no justification. I have seen instances where more dollars are spent in grieving or pushing so that they won't have to comply or try to come up with good faith collective bargaining than it would have cost to settle the contract in the first place.

It is not necessarily so that an out-of-state arbitrator would come in and make this decision. We have qualified in-state arbitrators.

In those instances where indeed the constitutionality issue has gone to the courts, it has been found that it is not unconstitutional, because where the arbitrator is selected by both sides, he, in effect, acts as an administrative agent of both bodies.

I contend and I will support these men and women out there in the field in the public service area that there has to be a resolve down the road.

We dealt with binding arbitration issues several times last session. The majority of the time the complaint was, it is too broad. We are being told that it will not work and that it is not necessary, so the committee brings to you a bill for your consideration that limits it. Maybe the time has come to find out if binding arbitration is such the monster that it should be, and I am

delighted that we are going to have a roll call.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mrs. Beaulieu, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

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

Mr. HANDY: Mr. Speaker, I request permission to pair my vote with the gentleman from Kennebunk, Mr. Murphy. If Mr. Murphy were present and voting, he would be voting nay; if I were voting, I would be voting yea.

#### ROLL CALL NO. 390

YE—Allen, Beaulieu, Bost, Brannigan, Brodeur, Carrier, Cashman, Chonko, Clark, Cox, Crouse, Crowley, Diamond, Erwin, Gauvreau, Hayden, Hickey, Higgins, H.C.; Joyce, Kane, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, Mahany, Martin, H.C.; Matthews, Z.E.; McCollister, McHenry, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Murray, Reeves, P.; Ridley, Rolde, Rotondi, Theriault, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Benoit, Bonney, Bott, Brown, A.K.; Callahan, Carroll, D.P.; Carroll, G.A.; Carter, Connors, Cooper, Cote, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Gwadnosky, Higgins, L.M.; Holloway, Ingraham, Jackson, Kiesman, Lebowitz, Lehoux, Livesay, MacBride, MacEachern, Macomber, Manning, Masterman, Masterton, Matthews, K.L.; Maybury, Mayo, McGowan, McPherson, McSweeney, Melendy, Moholland, Murphy, E.M.; Nadeau, Nelson, Norton, Paradis, E.J.; Parent, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Roberts, Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevens, Stevenson, Stover, Strout, Swazey, Tammaro, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Ainsworth, Andrews, Baker, Brown, A.K.; Cahill, Conary, Connolly, Hall, Hobbins, Jacques, Jalbert, Joseph, Kelleher, Martin, A.C.; Paradis, P.E. Paul, Richard, Soule, Thompson.

PAIRED—Handy-Murphy, T.W.

45 having voted in the affirmative and 85 in the negative, with 19 being absent and 2 paired, the motion did not prevail.

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

The Chair laid before the House the fourth item of unfinished business:

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)

Tabled—March 19, 1984 (til later today) by Representative Mitchell of Vassalboro.

Pending—Passage to be Enacted.

On motion of Representative Mitchell of Vassalboro, retabled pending passage to be enacted and assigned for Thursday, March 22.

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

SENATE DIVIDED REPORT—Report "A" (8) "Ought to Pass" as amended by Committee Amendment "A" (S-312)

Report "B" (4) "Ought Not to Pass"

Report "C" (1) "Ought to Pass"—Committee on Labor on Bill "An Act to Clarify the Negotiability of Pay Rates Under the State Employees Labor Relations Act" (S. P. 170) (L. D. 525)

—In Senate, Report "A" "Ought to Pass" as amended by Committee Amendment "A" (S-312) Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-312)

Tabled—March 16, 1984 by Representative Beaulieu of Portland.

Pending—Motion of same gentlemen to

accept Report "A" "Ought to Pass" as amended by Committee Amendment "A" (S-312)

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

Mr. WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I sincerely hope that you don't go along with the motion of "ought to pass." This is another divided report from the Labor Committee, which is not exactly uncommon. The only uncommon thing about it is that members of both parties are on the minority report, the "ought not to pass" report, and that is a little bit odd too, I guess.

To give you a little bit of history, this bill was before us a year ago and at that time, of course, it was a divided report and you heard some debate on it. During the summer it was held and suffered minor surgery. This winter it came back to us and in work sessions it had two more surgical operations on it and it still isn't well, believe me.

Back in the seventies, I think it was enacted in 1977, a study was done to find an equitable way for paying the state employees. At that time, the Hay Study got to be quite controversial but it eventually was passed by this House. It had some ramifications which I think were a little bit disturbing to a lot of people, there was a lot of debate on it, but it did pass and it did have some good parts to it too, because it was a means of controlling having a system for the 10,000 or 13,000 or whatever state employees in the Maine State Employees Association, and with that many people you must have a system, you can't do it otherwise.

Within that system there are some thirteen or fourteen hundred categories of employment and pay. It is inevitable that some people are going to think they are getting paid at the wrong rate of pay, they are in Schedule 7 and they think they should be in Schedule 9. And there was a system set up within the Hay system to take care of this. They could appeal if they thought that they were in the wrong category, and they went to arbitration, went the whole route so that it had to be resolved, there is no way that it couldn't be resolved.

They had one problem in that there was no time limit on it, so in 1977, this body passed a law putting a time limit on it so that if anybody thought they were in the wrong category or the wrong pay scale, it had to be resolved in a total of 75 days, that is a statute now.

Somewhere along the line, I think it was in 1981, there was a dispute between the union and the state as to whether or not all these issues should be negotiated. The union claimed they should be; the state said no, they shouldn't be.

It went to the Supreme Court. The Supreme Court ruled for the state, that they couldn't be negotiated. This is an attempt to overturn or circumvent the Supreme Court's ruling.

Now, the reason that would be awkward, terribly awkward and possibly terribly expensive for all these categories to be negotiated in every contract, I think it is obvious, because say a person is in pay range 7, an amendment we put on, it is amended to read that there has to be more than two pay scales' difference before it can be negotiated. All right, let's say that person in pay range 7 somehow or another got in pay scale 10. Then what happens to the guy that is left in 8? Is he going to be happy in 8 or is he going to want to go to 11? It has a decided domino effect, and what it amounts to is, there would be no more Hay study in existence and that is the problem you face now.

I have been bombarded in the last few days with telephone calls from state employees that in some instances they are not getting a resolution in 75 days. That is very true; I have checked and it is true, a fallacy in the system and I am not sure it is related with the Personnel Department at all but more the Maine Labor Relations Board in that they are not getting arbitrators out there in time to take

care of it. Well, should you throw the whole system out because the Maine Labor Relations Board isn't timely in their decisions or their activities? To me, it is a good deal like if people are not going to obey the 55 mile an hour speed limit, do we increase it to 65? It is like the dope laws, for instance, narcotic laws. If we can't enforce them do we say it is legal? I don't think so. I think we plug the hole and it is in the process of being plugged now in that they have been putting out more arbitrators to catch up with their backlog.

You stop and think about it. If a person has a problem, his pay is wrong, he has a legal opportunity to get that resolved in 75 days. If it goes to negotiation, there is no end result, there is no binding arbitration. It can literally be negotiated forever. Is that helping the employee or the employer? I doubt it very much.

There are various ways to take care of this, and certainly by negotiating every single thing within the Hay system is not the way to go because you would never get a resolution. They have been negotiating the present contract for about a year now and that is not anywhere near resolved, as I understand it. Think what would happen if they were negotiating these 1,400 pay scales within those negotiations. I doubt if they would ever get out of there.

No, I don't think it should be negotiated and I urge you very strongly to vote on the motion, and I ask for a roll call.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman is correct, this bill was here in the last session and it was held over so the committee could take another look at it and see if some of the objections of the administration could be answered, to see if some of the concerns of the members of this body concerning the possibility of overloading the bargaining process could also be addressed. We felt then and we feel now that those concerns are answered by two facts. One, the state and the union did negotiate these matters prior to the middle of 1982, and it was done without delaying the collective bargaining process or even hurting the overall classification system.

Two, under the National Labor Relations Act private companies have been obligated to negotiate these matters. What makes the state sacrosanct?

But we plowed along and worked the bill again this session, and we on the committee, in our anxiety and our anxiousness to oblige as many of the administration's concerns as possible, feel that we have a document that is not out of line to present to you.

There are two very significant limits on the union rights incorporated in the amended version, which is supported by the majority of the committee.

One, the amendment says the union cannot bring individual classification issues to the bargaining table. There is already a procedure in place for those issues to be taken care of. Those matters, again, on an individual basis have their own grievance type procedure.

Two, the union can only seek upgrades for whole classifications of workers if they can show that the groups are being underpaid by at least two pay ranges. We are not requesting that somebody who feels they deserve \$10 more, or a group of employees feel they need \$20 more, should wind up at the bargaining table.

The amendments, in my personal opinion, water down the bill. However, I feel comfortable that they answer the majority of all the real concerns. In looking over the amendments, we tried to work with the administrator who came to the committee most often, and his remaining ultimate concern we believe is one of philosophy.

I contend that when the Hay Plan was adopted or when the right to bargain was

granted, it was done by a Republican House and Senate. A Democratic House and Republican Senate made clear the right to negotiate over the matters when they passed the Hay Plan, and there is documentation through the Legislative Records for that position, and I think what we are dealing with here today is a philosophical commitment to reaffirm that employees should have the right to look out for their best interests through their negotiators so that they are appropriately paid. If the legislature does not enact this kind of bill, I contend we are simply telling the employees in one job or another that the only way their pay can be raised is with a general across-the-board wage increase applicable to all other employees.

In part of the debate the last time we cited examples where the state was losing qualified professionals because their rate of pay was so low that they had no alternative but to leave state service and go forward into the private sector. If we are to maintain our professionals, I think at some point in time somebody has to take the time to sit down and evaluate fair market value of their jobs. That should be done at the bargaining table in an orderly manner, and that is what this issue is all about.

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

Mr. CLARK: Mr. Speaker, Men and Women of the House: Very briefly, I thought some of you would like to know what other states have done with this issue. All the states that have collective bargaining laws for the state employees, only three have limitations on bargaining over pay that we currently have here in the State of Maine.

Even after we pass this amended bill, a majority of the states with bargaining laws will still be more liberal than the State of Maine. This is an even-handed bill, it is a fair bill and should be passed.

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

Mr. SPROUL: Mr. Speaker, Men and Women of the House: I want to speak very briefly for this bill today. This bill is very important to many people in my district. It is important because in the long run you cannot bargain over one part of the pay question and leave the other to the unilateral decision of one side, in this case management. It is important because of the issue of equal pay for equal work and the right of the union to fight for that issue. And finally, it is important because it is a fairness issue.

In our laws, we make some necessary distinctions between public employees and workers in the private sector. For example, we deny them the right to strike or engage in any other work action. I maintain we are correct in doing that, but when we deny a right to one group of public employees that other public employees have, that all private sector employees have, and we do that with no overwhelming state purpose, then we are treating these employees unfairly.

There is one question we should consider. Is there an overwhelming state purpose for denying this right? The Maine Labor Relations Board said, no, there is not. Let me quote very briefly from their report.

The state argued to the Labor Board that "collective bargaining is so repugnant to merit principles that reclassification and reallocation cannot possibly be subjects of bargaining." That is much the same argument they are making to this legislature, much the same argument Commissioner Bustin made in his letter which we received yesterday. This is how the Labor Board replied.

"In the face of the state's conclusionary allegation are two significant countervailing facts: 1. Merit systems, including their component classification and allocation are mandatory subjects of bargaining in the private sector covered by the National Labor Relations Act, including all the largest corporations operat-

ing in the American economy. 2. Federal standards explicitly recognize that collective bargaining can be consistent with the merit principle of internal equity."

Ladies and gentlemen of the House, I encourage you to vote yes on the impending motion and accept the bipartisan "ought to pass" report.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Earlier today I sent you a copy under my signature of a communication from the Maine State Employees Association that set forth their arguments in favor of this bill.

I would like to just speak briefly of my own involvement in this issue and take you back to 1976 when we had a battle in this legislature over the Hay Report, and it was a battle that would make our current difficulties with the Fish and Game Department or even the debate over the tax indexing look like an afternoon picnic at Sunnybrook Farm. It is probably the toughest fight that I have ever witnessed in my years in the legislature. In fact, we adjourned that session without a budget so bitter was the battle that went on. We came back later with a compromise, and that compromise included the ability to negotiate reclassification.

I would like to give you a quote from the debate of that time, and you have all heard from Commissioner Bustin, but at that time Commissioner Bustin said during the debate over this: "The reclassification, to my way of thinking, is a subject of collective bargaining." At any rate, we came back with a compromise that would include that in the bill.

I would also like to read to you the quote of new Attorney General Tierney just before we passed that compromise by a vote of 135 to 7. In response to the gentleman from Brewer, Mr. Norris, who had some doubts as to whether this compromise would settle the issue, he said: "I believe the gentleman is in technical error because future sessions of the legislature will not have to take the future inequities in the classification system, because due to the draftsmanship and legal analysis of my good friend from standish, Mr. Spencer, that Section 3 is clearly available to the collection bargaining and the matters contained therein are negotiable." I am afraid that the Attorney General's confidence was misplaced because of judicial technicality, the Supreme Court ruled that that particular section could not be implemented, and that is why we have this bill today.

As the gentledady from Portland, has said, there is a protective amendment, there is bipartisan support for this report. The gentleman from Hampden, Mr. Willey, mentioned the bipartisan support for the minority, there is also bipartisan support for the majority, and I would just leave you with the thought that any report that has the gentledady from Auburn, Mrs. Robinson, the gentledady from Portland, Mrs. Beaulieu, on the same report can't be all bad, and I hope you will support it.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: In defense of Commissioner Bustin, as we all get older we have times when we can reflect upon the things that we said when we were younger, and they prove to be wrong.

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

Mr. WILLEY: Mr. Speaker and Members of the House: I have heard a number of times about the technicality that caused the ruling of the Supreme Court. I have read their decision a number of times and it gets to be a little bit more than a technicality. They lay out their reasons in a legalistic sort of way, but what it amounts to is, they call attention to the fact that the resolution for the person that thinks



he needs to be reclassified from one place to another, thinks he is underpaid, can resolve that matter legally in 75 days, where by negotiation he may be years trying to get a resolution. That is one of the very outstanding parts of their decision and why they went this way.

I think the problem with the whole thing is, if you go this route it has the possibility of costing the state a fantastic amount of money if you have to negotiate each one of these things and you have no Hay system left because it is all up to negotiation, every single bit of it.

In effect, what they would be doing in many instances is the person that thinks—say a Typist II is suddenly getting paid as a Typist IV if they can negotiate that sort of thing because management will have to give up one thing to get something else. It is not a very negotiable issue, they have no handle on the system whatever from then on.

I urge you again to vote no.

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

Mr. GAUVREAU: Mr. Speaker, Men and Women of the House: After listening to the debate, I do feel compelled to add a few comments.

We have heard reference made to a decision by the Maine Law Court. The opponents of this measure would have you believe that the law court dealt on the merits with the issue of whether or not pay reclassifications could be the subject of collective bargaining. That is not the case; the court decided its case on a very narrow procedural issue dealing with the timeliness by which an appeal was taken by the union involved. There was a concurring opinion by Justice Godfrey and that amounted to nothing more than legal dicta. It is simply a factually inaccurate statement to imply or advocate that that decision ruled on the merits of this topic.

I am struck by the lack of attention in the debate to an issue that is only going to grow in size and significance in the next few years, and that deals with the area of comparable worth. In fact, I think that issue might eventually transcend the infamous Indian Land Claims issue in terms of significance and in terms of potential of fiscal impact to the state. One need only look at the State of Washington, which for years failed to address that issue in proper fashion and is now facing an outstanding judgment in excess of \$400 million in back pay award to female employees who were not fairly paid.

One final note I might make, the opponents of this measure would have you believe that the union is going to come in and inundate the bargaining process with so many range classifications, reclassifications, that it would make the whole collective bargaining process grind to a halt. That is, on its face, absurd. If you think for a moment, the union, whenever they prepare a reclassification request, has to do a tremendous amount of research to justify their claim. They have to point to the difference between wages accorded to state employees in the given classification and their counterparts in the private sector. One cannot really lay on the table frivolous requests, they have to be documented, and to do that the union has to adequately and thoroughly prepare those issues and in the process has to expend a good deal of their funds. So it is simply absurd to suggest, as some have, that the union would simply inundate the collective bargaining process with range reclassifications.

This bill is complicated, there is no question about that, but I think we should break it down into very basic terms. We are dealing here in some cases with the whole range of state employees who find themselves being paid at a rate substantially lower than their counterparts in the private sector. We can either allow these employees to process individual grievances, which will take a substantial amount of

time, and I submit that it would involve the expenditure of more time and resources than if we simply allow them to join their grievances and negotiate as a class. There aren't that many cases that justify such treatment, but there are some, and it seems to me an infinitely preferable means of dealing with that issue.

For this reason, I supported the bill and I would urge you to vote "ought to pass" on this measure.

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 Beaulieu of Portland that the "Ought to Pass" Report A be accepted. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Bucksport, Mr. Swazey.

Mr. SWAZEY: Mr. Speaker, I request permission to pair my vote with Representative Andrews of Portland. If he were present and voting, he would be voting yea; I would be voting nay.

#### ROLL CALL No. 391

YEA—Allen, Armstrong, Beaulieu, Bost, Bott, Brannigan, Brodeur, Carroll, D.P.; Carroll, G.A.; Clark, Connors, Cooper, Cote, Cox, Crouse, Crowley, Curtis, Daggett, Davis, Dexter, Diamond, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Handy, Hayden, Higgins, H.C.; Holloway, Jackson, Kelly, Ketover, Kilcoyne, LaPlante, Lebowitz, Lisnik, Locke, MacBride, MacEachern, Macomber, Mahany, Masterman, Matthews, Z.E.; Mayo, McCollister, McHenry, Melendy, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, E.M.; Murphy, T.W.; Murray, Paradis, E.J.; Parent, Paul, Perry, Randall, Reeves, P.; Robinson, Roderick, Rolde, Rotondi, Scarpino, Seavey, Small, Smith, C.B.; Sproul, Stevens, Stevenson, Strout, Tammaro, Theriault, Tuttle, Webster, Wentworth, Weymouth, Zirkilton.

YEA—Anderson, Bell, Bonney, Brown, A.K.; Callahan, Carrier, Carter, Cashman, Day, Dillenback, Dudley, Hickey, Ingraham, Joyce, Kiesman, Lehoux, Livesay, Manning, Martin, H.C.; Masterton, Matthews, K.L.; Maybury, McGowan, McPherson, McSweeney, Nadeau, Norton, Perkins, Pines, Pouliot, Racine, Reeves, J.W.; Ridley, Salisbury, Sherburne, Smith, C.W.; Soucy, Stover, Telow, Vose, Walker, Willey.

ABSENT—Ainsworth, Baker, Benoit, Brown, D.N.; Cahill, Chonko, Conary, Connolly, Hall, Higgins, L.M.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Martin, A.C.; Murphy, T.W.; Nelson, Paradis, P.E.; Richard, Roberts, Soule, Thompson, The Speaker.

PARIED—Andrews-Swazey.

82 having voted in the affirmative and 42 in the negative, with 25 being absent and 2 paired, the motion did prevail.

The Bill was read once. Committee Amendment "A" (S-312) was read by the Clerk and adopted and the Bill assigned for second reading the next legislative day.

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

SENATE DIVIDED REPORT—Majority (10 "Ought to Pass" in New Draft (S. P. 842) (L. D. 2262)—Minority (3) "Ought Not to Pass"—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)—in Senate, Majority "Ought to Pass" in New Draft Report read and accepted and the New Draft (S. P. 657) (L. D. 1847) passed to be engrossed.

Tabled—March 19, 1984 by Representative Mitchell of Vassalboro.

Pending—Acceptance of either report.

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

Mr. CARRIER: Mr. Speaker, I move the indef-

inite postponement of this Bill and all its accompanying papers.

The SPEAKER: The gentleman from Westbrook, Mr. Carrier, moves the indefinite postponement of this Bill and all its accompanying papers in non-concurrence.

The gentleman may proceed.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be very short on a very long subject.

We are here to face some of these bills and I think we are at a point in the session where we had better do something real fast, either get rid of these bills or else stop fooling around—you know, let's get going. That is why I make this motion, it is not continuous but it seems that is what I have been doing today but it is just incidental that we happen to have these bills which have been in our committee for a long time. I think it is time we take action and the action is now.

I am very much opposed to this bill as presented and amended. Originally, they came to us and the original bill called for six judges. I just want you to realize what type of situation we have and what ways and means people use in order to deceive us here in the legislature. What is the need? The big question is, do we need more judges at present? The first bill asked for six judges but the judges apparently were willing to settle for two judges this year, two next year and two, two or three years from now. How great to burden the next legislature with such bills to the tune of close to \$300,000 for something we actually do not need.

They came to us in committee and they gave statistics as to the amount of cases that were filed and the amount of cases that were disposed of. In the course of things, we have found that in the district courts they were pretty well up to date on it. In the Superior Court, they were a little behind, I think it was 147 cases at the end of the year. For some of you who are familiar with the court system, some of these cases are filed but they will be there for six, eight, or ten months depending on whether they can find the guy or whoever they are looking for, so the case is pending and that is what they came out with.

To show you what a good job they are doing in Superior Court, their performance was 91 percent of all the cases that were handled or that were filed, so the backlog and the caseload is very, very small.

I contend and some of the people on the committee contend that we do not need any judges. I think they are doing a good job. I kind of compare the judiciary to the Fish and Game outfit that we have out here—we know now and have known for a little while that the problem with the Fish and Game is inefficiency and this is what has happened in the courts too. They do not use all the talents they have. They say, well, we would like to have more judges—we don't give them anymore judges but you know what they do in a sneaky way? They put bills in here to get three administrative judges to handle cases now in the Superior Court and the District Court, that is how they work and this is what irks me to no end. They always come around the other way and find somebody, somehow, to get what they want.

I think members of the Appropriations Committee will agree with me, if they look back on their records they will find out, that a very small item that was put in their budget a while back was the purchase of computers. Wisely, I believe, the Appropriations Committee did not allow them money for computers. I think that this is right. But go down to Cumberland County today and you will find some computers. We pass laws here in the legislature directing them what to do and yet they use the money where they are not supposed to. If you go down there, you will see that. Another foolish thing they have down there is air conditioners. I do not know how many air conditioners they have but you know something,

when the air conditioners came, they didn't even fit the windows. This is the gross inefficiency we have there.

We are interested in the protection of the people and how the cases are handled. We have District Court judges who can sit in the Superior Court in case of an overload or wherever the judges decide to put them, the Supreme Court judges can sit down in the Superior Court and also sit in the District Court but what about the members of the Superior Court asking for three judges today? What do they do? Did they do their own guidelines or rules? They don't, they will not lower themselves to go serve in the District Court when they are needed. Because of their ability, they are not qualified to go higher so what do we do? We have judges in the Superior Court today that probably work only three hours a day. They use all kinds of techniques to make it look as if it is great. They schedule certain cases for the following week, come Thursday, they get to a jury and they are not going to use them until next Monday but they get a jury together and it costs the courts \$1,000 a day to keep that jury, they are not going to use them on Thursday, they are not going to use them on Friday and probably not on Monday, so the money is just flowing away and we are not getting the efficiency that we should have in the courts.

I hope your good judgment prevails today because we really do not need this. If you want to be conservative in this area, let's do that and let's take that money, if you really want to spend it, and put it in some area where so many people need help. We could go into wages and everything else but just consider for a minute when we cannot give—or I guess they have now—the local office workers for the state a three and a half percent raise, I guess it is, when the judges and the Commission suggests that we give them a 70 percent raise over a three year period. It is ridiculous and it bothers me a lot and I think if we want to do things right, I think we should kill this bill tonight. I hope you vote for the indefinite postponement.

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

Mr. HAYDEN: Mr. Speaker, Men and Women of the House: I want to explain to you and the House why it is that in this particular case I disagree with the gentleman from Westbrook. I don't think there is a person in this House who has stronger feelings about making sure that the judiciary is responsible than Representative Carrier. Sometimes I agree with him; right now I do not.

The reason I do not agree with him is because in the hearings that the Judiciary Committee had, we pressed the judges, we pressed the Superior Court judges, we pressed the Chief of the District Court—why is it you need these increases? They want a substantially greater increase in justices than we were willing to give, frankly, than I think we could afford to give. But the fact of the matter is that what we could not get away from was that in the Superior Court and in the District Court they are backlogged, the judges in Maine in those two courts carry a greater caseload than other judges in other states, than the national average is. The backlog is increasing, probably in part because the population is increasing, probably in part because we are becoming a more litigious society. There are more people that cannot settle their disputes at home or in their neighborhood and they are taking them to court. Personally, I think that is a bad idea but that is what we are being left with. Once somebody does that, then I think we have a responsibility to see that there is a just result. Right now what is happening is delays are growing because the workload is more than the justices that we have can handle. The old saying that justice delayed is justice denied has some truth to it and it is becoming more and more true in Maine.

What this bill does is it provides, just this year, for two new justices, one in the Superior Court, one in the District Court. In the future, next year, if the funding can be provided, then the bill will provide for another set of justices, but that is on the condition that the funding can be provided. That was a way that we thought was sensible on the committee, that I think is sensible, and to make sure that the justices can prove to us that the judges we are giving them now, the one District Court and the one Superior Court, are not enough.

I think that this is a sensible solution to the serious problem. It is giving them a quarter of a loaf and if they need more than that, they are going to have to come back and prove it to us and they are going to have to prove it to Representative Carrier too. I think that that is a good idea and that is why I am going to vote in favor of this bill, that is why the committee is supporting it, I hope that is why you will support it too and vote against Representative Carrier's motion.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: In the past ten years, we have had a dramatic increase in the population in the State of Maine. During the same period, numerous legislators have met and hundreds of bills and procedural recommendations have been passed into law. It is logical to assume that these and other combined factors have contributed toward the increase in the caseload of our judges. We have only to read the daily docket of our district court and question how so many trials can be conducted in a single day. Sometimes you wonder if justice is always being properly served.

Each session of the legislature we have listened to the Chief Justice speak of the increasing problems within his jurisdiction. Unfortunately, over the years we have been unable to assist in resolving any of the many issues he has annually discussed with the legislature.

The bill before us today is a minimal and necessary approach to facing some of the judicial problems. Hopefully, over the three years it could remedy the existing needs of our court system.

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

Mr. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. I do feel that I should get up and at least try to explain why I signed against this bill. I hope that you were listening to my good friend, the gentleman from Westbrook, he was right on target.

They tell about the judges, the court system coming before us, to try to justify these additional three justices and three judges. The testimony that was brought before our committee did not in any way justify anymore district court judges at this time.

The figures that they gave us last year, the district court held 215 filed cases. They rendered 215,000 decisions. They admitted that there is no backlog. There is a little backlog, and we all realized this in committee, in Superior Court, but the revised bill turned out by the committee, you are talking, as Mr. Carrier told you, about \$300,000 because that bill proposes one each this year, one each next year and one each the following year. They came in and asked for three and three, period, all at once.

I feel that they did not justify the need and you are talking about a position that pays in excess of \$40,000 a year. Until they can justify more need in our court system, I cannot justify more judges.

I urge you to support Mr. Carrier's motion to indefinitely postpone this bill.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today without shame to oppose my good and dear friend, J. Robert Carrier. It is an awful thing to speak against J.

Robert, especially during lent—

The SPEAKER: The Chair would ask him not to speak about J. Robert—speak to him as the gentleman from Westbrook, Mr. Carrier, under the rules.

Mr. JOYCE: Mr. Speaker, I honor the rules more than I honor J. Robert Carrier.

The SPEAKER: The Chair appreciates that. The gentleman may proceed.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: Chief Justice McKusick came before this body and explained to us the state of the judiciary. In his speech, which was not quite as long this year as it was in the past, he pointed out the urgency involved in the obtaining of two more judges for the Superior Court and three more judges for the District Court. Well, it was a short time before or a short time after that our good Governor took the trip from the second floor up here, having completed his budget, and said how he would recommend one District Court judge and one Superior Court judge.

Now my good friend, and to keep the record straight, Mr. Speaker, I have to mention J. Robert Carrier, said that there were three administrative judges that hear trials in Superior Court and District Court. This is in error because I have not really had a chance to explain that to him, but we have two administrative judges in the State of Maine and Justice McKusick has an arrangement where each one of them will work one week each month hearing cases in the District Court or in the Superior Court.

I often hear that there is plenty of wasted courtroom time around the circuit. I went down to Cumberland County to check this out about two weeks ago. I learned down there, if somebody is arrested in Cumberland County, they put them on a waiting list for when they will go to court. As of two weeks ago, it was a two year delay in going to court. I guess what that points out is that if you got arrested and knew you were going to court, you could run for election to the House and you could serve a term before you would have to go to court, you have that much time. That right there is really a case for justice delayed and justice denied.

We have a serious problem in the courts. We have a problem with no court houses, we have a problem over there that you people are familiar with in Brunswick and Bath, they should buy a stagecoach for that fellow that is the judge there. I don't recall his name but he used to sit over there, I think the fourth row, I know now that it is Judge Clifford O'Rourke, he is riding around the circuit, he should have a horse; he never sits the same place two days in a row because of the shortage.

Yes, I think, Mr. Carrier, you are wrong on this one and I am asking you, the good people of this House, to give us the vote and kill the indefinite postponement and then we can probably push this bill under the hammer because it is a long ride down to Westbrook tonight.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, just to respond to some of the things that people have said. I don't know where they got their statistics but this is from the Judicial Resource Report and it comes from Portland. Actually, there are no back cases in the Superior Court. As I said before, 91 percent of their cases were taken care of last year.

It was mentioned about one and two years of waiting, a lot of these cases are filed but they do not come to face with going to court because they cannot be found, they have disappeared and things like that, but the case still stays on the docket. In Superior Court, 91 percent was taken care of. As Mr. Reeves said, the report also shows that we had 215 cases filed in the District Court and 215,000 were also disposed of.

One of the things mentioned was the contin-



uous growth of cases and all that, maybe you have it in certain areas but this is a report concerning all courts and back in 1980 there were 237,000 cases filed. In 1981, there were 230,000; in 1982, there were 218,000, so this goes to show you it is just the opposite of what some people have said it was going to be. This is a court report, it is put out by the administrator and all those nice people down there, the judges and all.

From the start, we should have given credit to the good judges that we have and the ones that try so hard and do a good job under very hard circumstances. I think it is a very unpleasant job, but let's keep things straight. Going to Brunswick, sure our good friend, Judge O'Rourke, is down there. I will tell you one thing, this is not who I had in mind but I am not going to use names.

In Brunswick, for your information Representative Joyce, you can go down there and check on certain individuals who you know down there who sets up the court system for eleven o'clock in the morning, at one o'clock he hears about six cases, he will take it under advisement and he does nothing. He does not take his car and go back to Portland, he gets a motel for the night and he stays there. There is no reason why people cannot put more than three or four hours work a day in. There is no reason for that and I do not think that is what we pay them for.

The cost on this is tremendous. I can send you a breakdown, if I could afford to have it printed, of how much an individual judge costs even though it says \$51,000. You add all the amenities, their vacation pay and all the time off and everything else, it is a \$70,000 to \$80,000 job.

Another thing that irks me is that the government, not us individually, have the gall to advertise that those interested in a judgeship could lower themselves and come here and send their names in to beg for a judgeship job. That was a lawyers' edition a couple of months ago, January, and I think that this is bad. I do not think that you have to bring the judge to the point where they have to advertise for a job, I really don't. I can talk in favor of them and not against them by sticking to the information that I have, and it comes from good sources.

I do hope that for the best interests of the public that you do vote to indefinitely postpone this bill.

When we need judges or other things, bring the need to us, we will consider it and if it is there I will be one to support it.

I would request a roll call.

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 the gentleman from Westbrook, Mr. Carrier, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

#### Roll Call No. 392

YEA—Anderson, Bost, Brown, A.K.; Callahan, Carrier, Carroll, G.A.; Carter, Connors, Curtis, Daggett, Davis, Dexter, Holloway, Jackson, Kiesman, Masterman, Maybury, McCollister, McHenry, McPherson, Michaud, Norton, Parent, Paul, Perry, Pouliot, Reeves, J.W.; Ridley, Roberts, Robinson, Roderick, Scarpino, Seavey, Sherburne, Smith, C.B.; Smith, C.W.; Stevenson, Tammara, Telow, Wentworth, Weymouth.

NAY—Allen, Armstrong, Beaulieu, Bell, Bott, Brannigan, Brodeur, Carroll, D.P.; Cashman, Clark, Cooper, Cote, Cox, Crowley, Diamond, Dillenback, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Handy, Hickey, Higgins, H.C.; Higgins, L.M.; Ingraham, Joyce, Kelly, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, H.C.;

Masterton, Matthews, K.L.; Matthews, Z.E.; Mayo, McGowan, McSweeney, Melendy, Michael, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Paradis, E.J.; Perkins, Pines, Racine, Randall, Rolde, Rondoni, Salsbury, Small, Soucy, Sproul, Stevens, Stover, Strout, Swazey, Theriault, Tuttle, Vose, Walker, Webster, Zirnkilton.

ABSENT—Ainsworth, Andrews, Baker, Benoit, Bonney, Brown, D.N.; Cahill, Chonko, Connolly, Connolly, Crouse, Day, Dudley, Hall, Hayden, Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Ketover, Martin, A.C.; Murphy, T.W.; Nelson, Paradis, P.E.; Reeves, P.; Richard, Soule, Thompson, Willey, The Speaker.

41 having voted in the affirmative and 78 in the negative, with 32 being absent, the motion did not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for Second Reading March 22, 1984.

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

HOUSE DIVIDED REPORT—Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" — Committee on Business Legislation on Bill "An Act to Amend the Maine Lemon Law to Include Vehicles Such as Tractor Trailers" (H. P. 1490) (L. D. 1965)

Tabled—March 19, 1984 by Representative Mitchell of Vassalboro.

Pending—Acceptance of either report.

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

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

The SPEAKER: The gentleman from Portland, Mr. Brannigan, moves that the House accept the Minority "Ought to Pass" Report.

The gentleman may proceed.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: We are going to debate the issue of the lemon law and inclusion of trucks. Last session we passed the Lemon Law dealing with automobiles and it was passed without debate because there was a unanimous committee report.

The Lemon Law is a law which deals with serious problems and only serious problems. It is a real lemon law and not a law that deals with problems people are having with usual warranty problems or discussions with their dealers or poor service, a car must be a real lemon to come under this law. It has to have failed in a serious situation four times to be fixed, one serious defect, or that during the warranty period, 30 working days you lose the use of it, so it is only in very serious situations that the Lemon Law goes into effect.

Secondly, it is a problem that falls on us as customers and dealers, but really it is a problem between the dealer and the manufacturer because it is the manufacturer's problem when you get a car that is as defective as one that would come under the Lemon Law.

It seems to me that trucks also should be included; therefore, when a bill was presented this year by Mr. McHenry, I joined with him, as did some others, in supporting that trucks be included. You will hear many reasons why trucks should not be included but I believe that the answers to those objections will fall under the two categories that I just mentioned—one, that it is only for serious situations and, two, that it is a problem between dealers and manufacturers.

I hope you will support our "Ought to Pass" Report.

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

Mr. MURRAY: Mr. Speaker, Men and Women of the House: I agree that at first glance of this bill it could be very appealing, the concept of including trucks and trailer tractor trucks like we do passenger cars under the Maine Lemon Law. No one wants to deny that tractor trailer

trucks should be treated fairly or the owner should have his rights denied. However, the committee spent a long time dealing with this issue and in looking closely at it found several problems with simply including tractor trailer trucks in the present Maine Lemon Law. I believe this bill would not only fail to achieve that positive end of treating trucks fairly but would also allow for some very undesirable side effects. Let me share with you a few of those.

As Representative Brannigan pointed out, the present Lemon Law deals with the warranty period and problems that occur during the warranty period. If a car comes back four times within the warranty period, or one year, without being fixed, that car is eligible under the Maine Lemon Law. I think that was a good bill. We passed that with unanimous support last session.

However, warranties for tractor trailer trucks are very different from that of a passenger car. Tractor trailer trucks are not always made and serviced by the named manufacturer alone. There are several component parts when you are dealing with a tractor trailer truck. Each of these component parts often have their own separate warranty. Now, under the present law, if a warranty fails, that car is replaced under the Lemon Law; that tractor trailer truck, if one warranty provision fails, it is questionable whether we should be replacing the entire truck, whether we should be replacing the component part and those questions were never answered during our work sessions or our public hearings. It is a problem with the bill.

Also with regard to warranty, servicing arrangements for tractor trailer trucks are quite different. When we are dealing with trucks, we are dealing with a national network, which often includes servicing of those component parts which I already mentioned. Many of the service contracts that these tractor trailer trucks when they are purchased are arranged between the purchaser and the manufacturer or dealer. Many of those purchasers will provide service themselves under a contract, and again the question of whether the warranty would apply comes into question with this Maine Lemon Law. It complicates the standards which we presently use in the Maine Lemon Law when you are dealing by adding tractor trailer trucks.

Another problem with this law, it would remove the provisions we placed last year in the bill to limit the law to three vehicles or under. We did this last year to direct our attention specifically at the consumer who purchases that passenger car. By removing that provision, we are now going to allow for fleets of cars so that Avis Rent-A-Car, Hertz Rent-A-Car, your local fleets of taxis, will now be covered under the Maine Lemon Law. I do not believe that these fleets should be covered because they have much greater resources and very different available channels presently by which they can already be protected. We should not dilute the present law which is aimed specifically at protecting consumers.

The reason I am most opposed to this bill, I believe, is that it is, I think, inherently ineffective if we were to pass it as the bill suggests.

During that work session and the hearing, we heard several examples of trucks that had deficiencies, that had problems with their warranty, that were not serviced to the satisfaction of the purchaser. However, in looking at it more closely, we also determined that if we were to pass this law as it is before you now, many of these trucks would not even come under that Lemon Law. So what in effect we would be doing by passing this law is, I believe, fooling the public into thinking that they would have protection that in reality will not be there.

There are available remedies now for the trucker. If we were to defeat this bill, we are not going to be leaving our tractor truck owners out in the cold.

The commercial purchaser has a variety of rights which are unavailable to the typical consumer. Commercial warranties are generally more extensive and of longer duration than those for personal use vehicles. In addition, the uniform commercial code provides the buyer with a number of remedies against the manufacturer or seller, including loss of business due to the violations of a warranty provision if the truck owner is going to take advantage of these present laws.

By enacting the Lemon Law last year, the legislature provided some leverage for consumers who purchased real lemons, seriously defective automobiles, against that manufacturer. It was felt that even this limited step represented positive change for consumers who lack the bargaining power to compel manufacturers to undertake corrective actions.

The problems of truckers and commercial enterprises, while perhaps no less serious, are of a very different kind. The real threat presented by this bill is that it may serve to undermine the effectiveness of the present lemon law for consumers while without substantially improving the lot of those truckers and business concerns.

For these reasons, I would therefore urge you to vote against the pending motion, support the Majority "Ought to Pass" Report and I would ask for a Division.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I presented this bill because one of my constituents, who does own some tractor trailers, approached me last July and asked me if the Lemon Law was in effect. I thought maybe he was covered under the Lemon Law, I presumed that he was. I went over and called the Attorney General's Office and the Attorney General checked it out. He didn't know either, and come to find out, vehicles are covered up to 8,500 pounds, so that excluded his tractor trailer. This not only takes care of the tractor trailers but it also helps farmers with farm vehicles which are not presently covered.

I then proceeded to draft a bill. I do not know that much about the Lemon Law but I figured in order to have a title, I put the title in under the Lemon Law. I was told that maybe I should have gone under another title but this is where I am at.

The Committee on Business Legislation did listen, they know there is a problem like my constituent had, it was just a matter of a simple rubber washer somewhere in the hydraulics and that is how it started. He kept going back to the dealer, back and back and back, and his truck, every time he hit a certain speed, started vibrating and that little washer, by the time they found out what it was that was causing the problem, his whole truck was a mess, really. He has had all kinds of problems. It would qualify for a lemon. In order to take care of some problems which have been brought up, I believe that an amendment which would take care of going back to the same dealer four times could be provided for tractor trailers.

Tractor trailers are an investment of anywhere from \$50,000 to \$80,000. You cannot expect to have the same warranty on tractor trailer that you have on a car. You buy a car and you pay \$10,000 and I do not believe that because a person owns five, ten, twenty vehicles should be considered able to take care of his problem because he happens to have more money or more assets than I do as an individual. I think that is not a good argument.

Luckily, my constituent did own more than one tractor trailer. Had he owned one tractor trailer, I can tell you what would have happened to him, he would have been out of business, he would have lost everything, but the man owns more than one, he owns, I believe, six or seven. In order for him to survive, you know he can survive without the law and he

has and he is just doing this—he asked me to do it to protect people in the future that might be starting off in business.

Imagine if you were to start a business and you bought a lemon for a tractor trailer, you must go to the UCC and that says you get your truck repaired and that is what you would have to do, get your truck repaired at your own expense and then you have to go to court. Then you must hire an attorney and go to court and you know what that means, quite a lot of money, and for a person who only owns one tractor trailer, just starting out and trying to meet his payments, once that tractor trailer is off the road, you lose your livelihood, you just cannot make it. That is why that person asked me for other people who might be trying to get into the business and I believe somehow there must be somebody that can really amend this bill and do a good job and make it workable. If we have to, rather than saying you must return four times to the same dealer, there are exceptions for tractor trailers but there is not only the matter of tractor trailers, there is the matter of the small potato trucks, apple trucks and all of your farm—most of your farmers don't own just three vehicles, they own, four, five, six or ten, maybe twenty, and I believe they should be protected also.

With the present law, they are not protected under the Lemon Law. I am not saying that the Lemon Law is the greatest thing in the world, but at least it is a step in the right direction and it is making the dealers and the manufacturers aware that we in the State of Maine will not stand by idly and let them take advantage of our people.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I would be the first to admit that probably there should be a bill to handle this problem for the trucking industry. I also say that this is not the vehicle.

I have heard of cars being piggybacked by trucks but I have never it in reverse and that is exactly what we heard.

I think we will tear the Lemon Law apart if we add this to it. I say, come back next year with a bill of your own and do not try to do something where it just won't fit.

I just have to pick up Chapter 145 which we passed last year on the Lemon Law and I will read just a little bit of it. It says: "at least two of the times"—they are talking about the troubles you may have—"you must go back to the same agent or dealer." As I understand it, these trucks may break down in Colorado, Los Angeles, everywhere, but not back to the same dealer. If that is true, then these truckers who think they are covered are going to find out they are not covered.

For that reason, I say, let's go with the Majority Report.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mrs. MacBride.

Mrs. MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I am supporting this Bill. I come from an area that is almost completely dependent on trucks, trucks in our potato fields, trucks in our woods operations and trucks on the highway hauling produce in and out of the county. With all of these activities, time is really an important factor.

If a farm truck breaks down during potato harvest or planting, it can be very costly to the farmer. Labor costs go on and weather is, indeed, a big factor. Every hour or every day that is lost may make the difference to the farm operator. The potatoes, peas, broccoli must be planted when the weather is good; they must be harvested before a freeze, and if a truck is broken down or is a lemon, the farmer is in trouble.

Farm trucks cost between \$20,000 and \$30,000 depending on the equipment on it. I feel that they should qualify under the Lemon Law just as a car does. The owner has the in-

vestment. If he has purchased a lemon, he should have the same recourse to action as the car owner does even though the two types of vehicles are different. There should not be the present discrimination against trucks that now exists.

I hope that you will vote for the "Ought to Pass" Report.

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

Mrs. STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: All of us agree that the truckers in Maine might need some help. The policy of whether or not we are going to consider it under a law that has been drafted to protect the consumer is another issue.

If Representative McHenry's trucker had a problem last year and hopes that he is going to solve it by being under the Lemon Law next year, it will not be true. In order for it to work, you go through three steps: You go to the dealer, if you get no satisfaction you can go to your regional dealer and then the next step is to go to an arbitration board. There are only three arbitration boards in the State of Maine right now. They are the Ford, the Chrysler and an Autoline that covers some General Motors and some Volkswagen, Audi and Porsche cars. There is no arbitration board for the vehicles right now. He is going to have to go to court whether he wishes to or not under the present Lemon Law. It does not give him any measure of protection from court costs.

Under the UCC, Representative MacBride, farmers have the right to recover consequential damages if their crops are lost. That is a mechanism that is allowed business under the UCC. There is the avenue to do that.

If it would help, I think we would all support the bill. I do not feel that it does. I feel that it would weaken the Lemon Law. There is a classic difference between the consumer and business in our laws. It applies to the way we finance our cars, it applies to the ways cars are insured and many areas. You cannot mix the two and keep an effective consumer bill in the Lemon Law.

Mr. Kelleher of Bangor requested a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Portland, Mr. Brannigan, 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.

Mr. Brannigan of Portland requested a roll call.

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 Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: A lemon is a lemon, no matter how you peel it. A man that pays \$80,000 for a truck and the dealer will not guarantee it, if you have a hundred trucks and you are a leasing company, that dealer will put a motor in that in twenty minutes, but if you are like me or Mr. McHenry's constituent, he will say, we cannot put a motor in that now, Mr. Moholland, you will have to get hold of the factory man in a couple of weeks. By that time, you have lost your truck, trailer, the finance company has taken everything away from you.

I think there ought to be some way, if you are going to have a Lemon Law for an 8,000 pound vehicle, you should have one for a 31,000 pound vehicle.

I hope you will vote with me today to get this on the books.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I also hope that you will vote to include this in the Lemon Law. In other Lemon Laws throughout the country, trucks are included. In Connecticut, which was the

model law, in California which followed suit, trucks are included and they are not subversive to the law itself.

As far as arbitration is concerned, it is required if arbitration is available; if arbitration is not available, that step is bypassed and the dealer and the manufacturer must take care of your problem. This throws it for trucks, big and small, for cars, back where it belongs, on the dealer and the manufacturer.

I agree that a lemon is a lemon whether it is big or small. Please join with us this evening.

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

Mr. MURRAY: Mr. Speaker, Men and Women of the House: The fundamental question is not whether we are in favor of the truckers or against them; the question is, what is the best avenue for those truckers to use and is this law applicable and if we pass it, will it be effective? The answer to that question, I believe, is that the avenues for the truck owner are in place.

We looked at this bill very carefully during our deliberations and I think there was a lot of effort put on this bill to try to find a better mechanism by including it in the Lemon Law. That mechanism was not available. It was not available, I believe, for the reason that a better mechanism, namely the present laws through the UCC and others, is already in place which will address those needs.

The truck owner has those avenues, we treat those businesses differently in several aspects of our laws as has been pointed out. That is why we have a credit consumer code, that is why businesses have to deal with financing in a different way and it is appropriate that the trucking industry use the avenues already in place.

I would hope that you would support the majority position of the committee and oppose the present motion.

The SPEAKER: The pending question before the House is the motion of the gentleman from Portland, Mr. Brannigan, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### Roll Call No. 393

YEA—Allen, Bonney, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, G.A.; Carter, Clark, Cooper, Cox, Daggett, Davis, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Gauvreau, Gwadosky, Handy, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Jackson, Joyce, Kelly, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; McGowan, McHenry, McPherson, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Murphy, E.M.; Norton, Paul, Perry, Pines, Racine, Randall, Ridley, Roberts, Rolde, Rotondi, Salisbury, Scarpino, Seavey, Small, Smith, C.B.; Smith, C.W.; Soucy, Stevenson, Stover, Strout, Swazey, Tammaro, Theriault, Tuttle, Vose, Walker, Webster, Wentworth, Weymouth, The Speaker.

NAY—Anderson, Armstrong, Beaulieu, Bell, Bott, Callahan, Carroll, D.P.; Cashman, Connors, Crowley, Day, Foster, Greenlaw, Hayden, Kiesman, Livesay, Locke, Masterman, Masterston, Maybury, Mayo, McCollister, Mills, Mitchell, J.; Murray, Nadeau, Paradis, E.J.; Parent, Perkins, Reeves, J.W.; Robinson, Roderick, Sherburne, Sprout, Stevens, Telow, Zirkilston.

ABSENT—Ainsworth, Andrews, Baker, Benoit, Brown, D.N.; Cahill, Carrier, Chonko, Conary, Connolly, Cote, Crouse, Curtis, Dudley, Hall, Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Ketover, Martin, A.C.; Murphy, T.W.; Nelson, Paradis, P.E.; Pouliot, Reeves, P.; Richard, Soule, Thompson, Willey.

82 having voted in the affirmative and 37 in the negative, with 32 being absent, the motion did prevail.

The Bill was read once and assigned for Second Reading, March 22nd.

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

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

Tabled—March 19, 1984 by Representative Murray of Bangor.

Pending—Passage to be Engrossed.

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

House Amendment "A" (H-549) was read by the Clerk and adopted.

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

The Chair laid before the House the fifth 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 19, 1984 by Representative Mitchell of Vassalboro.

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

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

Mr. DIAMOND: Mr. Speaker, I move this item be tabled under suspension of the rules for one legislative day.

The SPEAKER: The gentleman from Bangor, Mr. Diamond, moves that this item be tabled for one legislative day, under suspension of the rules, pending reconsideration.

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

Mr. HIGGINS: Mr. Speaker, a point of parliamentary inquiry?

The SPEAKER: The gentleman may state his inquiry.

Mr. HIGGINS: Mr. Speaker, two questions, if I might. First of all, should the House allow this bill to be tabled for one day under suspension of the rules will it require a further vote on suspension of the rules at that time?

The SPEAKER: If the motion to retable were to be made?

Mr. HIGGINS: Yes.

The SPEAKER: The Chair would answer in the affirmative.

Mr. HIGGINS: Mr. Speaker, the second question is, will it be necessary that the veto be acted upon before we adjourn this legislature?

The SPEAKER: The Chair would answer in the affirmative.

Whereupon, under suspension of the rules, retabled pending reconsideration and tomorrow assigned.

The Chair laid before the House the sixth 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 19, 1984 by Representative Gwadosky of Fairfield.

Pending—Passage to be Enacted.

On motion of Mr. Gwadosky of Fairfield, under suspension of the rules the House reconsidered its action whereby this Bill was passed to be engrossed.

The same gentleman offered House Amendment "A" (H-546) and moved its adoption.

House Amendment "A" (H-546) was read by the Clerk.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of this amendment is to establish a more uniform standard for all municipalities with respect to eligibility criteria for financing under the Revenue Obligation Bond Program. Under the previous bill, we had set up sort of a dual system for communities with different size populations, and we have decided now that it is more equitable now to treat all communities the same.

Thereupon, House Amendment "A" was

adopted.

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

The Chair laid before the House the seventh 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 19, 1984 by Representative Mitchell of Vassalboro.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I am going to ask for a roll call on enactment of this L. D. and very briefly I want to tell you that I have to oppose this bill as it requires all individuals to complete a special school bus driver's examination before operating a school bus.

It also would eliminate operating a school bus between the time of application and the result of the examination.

I further would oppose it because it eliminates a provision that is in the present law that allows an individual to operate a school bus up to ten days a school year. We in the rural areas need more flexibility.

I ask you to oppose enactment.

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

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, as a cosponsor of the bill, I will try to explain exactly why it is here before you. There have been a great number of cases and they are increasing where school buses carrying school children are being driven by people who are not certified licensed drivers.

This bill was an attempt to ensure that everybody who drives a bus which carries school children is a licensed driver. There are cases now where on trips and things of this sort, they have a teacher who drives, a coach who drives and maybe something of this nature. The gentleman said it may be a hardship but I would question whether it is a hardship, it may be an inconvenience. I would say many schools handle this problem in my area by having somebody on their custodial staff or some of the teachers take the exam so that they are licensed.

Mr. Richard from Madison read into the Record yesterday a statement from the Secretary of State, Rodney Quinn, that they would be glad in case of any emergency in two days time they could process the license.

This, I believe, is an 11 to 2 committee report "Ought to Pass" and I hope you will go along with the majority report.

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 Chair recognizes the gentleman from Harrison, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, I would like to pose a question through the Chair. I listened the other day to Mr. Richard and his explanation of the Secretary of State's Office in regards to this. It is my understanding that these drivers will have to pass a driver's test; if so, where will that be taken? Will that be taken back in the local districts or will they have to come to Augusta to take this?

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

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

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding—Mr. Richard is not here at the moment—that if necessary, the Secretary of State would send somebody to the school that is in question

and will give the exam there.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

**ROLL CALL NO. 394**

YEA—Allen, Beaulieu, Bonney, Bost, Brannigan, Brodeur, Callahan, Carroll, D.P.; Carroll, G.A.; Cooper, Cox, Crowley, Daggett, Day, Diamond, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Handy, Hayden, Hickey, Higgins, H.C.; Jackson, Joyce, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, MacBride, Macomber, Manning, Martin, H.C.; Masterton, Matthews, K.L.; Matthews, Z.E.; McHenry, McPherson, McSweeney, Melendy, Michael, Mills, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paul, Perry, Pines, Ridley, Rolde, Rotondi, Salisbury, Seavey, Small, Soucy, Stevens, Stevenson, Swazey, Telow, Theriault, Tuttle, Vose, Wentworth, Weymouth.

NAY—Anderson, Armstrong, Bell, Bott, Carter, Cashman, Clark, Conners, Davis, Dexter, Dillenback, Higgins, L.M.; Holloway, Ingraham, Kelly, Kiesman, Livesay, Locke, MacEachern, Mahany, Masterman, Maybury, Mayo, McCollister, McGowan, Michaud, Moholland, Murphy, E.M.; Norton, Paradis, E.J.; Parent, Perkins, Racine, Randall, Reeves, J.W.; Roberts, Robinson, Roderick, Scarpino, Sherburne, Smith, C.B.; Smith, C.W.; Sproul, Stover, Strout, Tammaro, Walker, Webster, Zirnkilton.

ABSENT—Ainsworth, Andrews, Baker, Benoit, Brown, A.K.; Brown, D.N.; Cahill, Carrier, Chonko, Conary, Connolly, Cote, Crouse, Curtis, Dudley, Hall, Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Ketover, Martin, A.C.; Murphy, T.W.; Nelson, Paradis, P.E.; Pouliot, Reeves, P.; Richard, Soule, Thompson, Willey, The Speaker.

68 having voted in the affirmative and 49 in the negative, with 34 being absent, the motion did prevail.

Signed by the Speaker and sent to the Senate.

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On motion of Mr. Carter of Winslow,  
Adjourned until Thursday, March 22, at  
eight-thirty in the morning.

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