

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

HOUSE

Friday, May 17, 1985

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

Prayer by Father Gilbert Patenaude, St. Francis Xavier Catholic Church, Winthrop.

Quorum called; was held.

The Journal of Monday, May 13, 1985 was read and approved.

Papers from the Senate

The following Communication
The Senate of Maine
Augusta

May 13, 1985

The Honorable John L. Martin
Speaker of the House
112th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Agriculture, the Governor's nomination of James M. Begert of Lewiston for appointment to the State Harness Racing Commission.

Mr. Begert is replacing Thomas Kerrigan.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Provide for Greater Tax Expenditure Accountability" (S.P. 579) (L.D. 1521)
Came from the Senate, referred to the Committee on Taxation and Ordered Printed.

Was referred to the Committee on Taxation in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Transportation reporting "Leave to Withdraw" on Bill "An Act Concerning Surplus Funds Generated by Ferry Lines" (S.P. 517) (L.D. 1391)

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 Education reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-85) on Bill "An Act to Amend the Law Concerning the Student Incentive Scholarship Program Under the Education Law" (S.P. 68) (L.D. 119).

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-85) and Senate Amendment "A" (S-88)

Report was read and accepted and the Bill read once.

Committee Amendment "A" (S-85) was read and adopted.

Senate Amendment "A" (S-88) was read.

Representative CROUSE of Caribou moved indefinite postponement of Senate Amendment "A".

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: I hope you would oppose the motion to indefinitely postpone Senate Amendment "A". What Senate Amendment "A" does is that it does something for the VTI students of the State of Maine. It sets aside two and one half percent of Maine Student Scholarship Incentive Program monies for both the VTI students and the Maine Maritime Academy students. If this amendment is removed from the bill, the VTI students and the Maine Maritime Academy students will have to compete with all those university students for Maine Student Scholarship Incentive money.

I would hope that you would oppose the motion before you today.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Crouse.

Representative CROUSE: Mr. Speaker, Ladies and Gentlemen of the House: The reason that I am asking for Senate Amendment "A" to be indefinitely postponed is, in committee we had a bill before us that all of us supported and we felt that the percentage for public institutions should be raised for the Student Scholarship Incentive program. I will read to you what the original bill says: "Maine public post-secondary institutions grant allocations - the department may allocate up to (and we changed it from 25 percent to 30 percent) of the State Student Incentive Scholarship grants to eligible students attending the University of Maine, Maine Maritime Academy and the Maine Vocational-Technical Institute. Maine Maritime Academy and the Maine Vocational-Technical Institutes were added to the bill.

Some people believe and the department has said to us that, depending on the year, the VTI's will receive money. This past year 47 students, I believe, received some money from the incentive scholarship program. Next year, they are predicting they won't be receiving money.

There is a belief that students attending the VTI's are lower income students and I don't believe that has been proven in any way. Students that attend the University of Maine and the University of Maine in Augusta qualify for the Student Incentive Scholarship Program on a need based formula. It is in law, it is part of what the department establishes for a need based formula. A need formula is a need formula and based on cost of attendance minus grants, minus family contributions equals that need.

The University of Maine at Augusta's cost of attendance is higher than the VTI students that go to the VTI's in the State of Maine. Are we going to put another percentage in for the University of Maine in Augusta to dedicate monies for the University of Maine here in Augusta also?

We have a very complicated formula if we go with the amendment, allocating two and one half percent for Maine Maritime Academy and becomes a very difficult formula to deal with from the department's point of view and it is not fair on the need based formula. It is not fair for the other students going to the University of Maine and I hope you go along with the motion to indefinitely postpone Senate Amendment "A". There were only three members in committee, I believe, that supported that idea and I hope you go along with my motion.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Roberts.

Representative ROBERTS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to support the Representative from Caribou in his motion to strike out Senate Amendment "A". He has given you most of the facts. I will give perhaps one more. If we pass the amendment, we are saying that the approximately 600 students at Maine Maritime Academy shall have one-tenth of the amount of money of the 20,000 students at the University of Maine system, full-time equivalents. This, of course, would result in a tremendous unfairness it seems to me. It would mean that the students at the University of Maine in Augusta would still probably have none as they had last year because they would compete with the rest of the University of Maine systems. Maine Maritime and VTI's would not need to show equal financial need so again, I urge you to continue to base the decisions upon demonstrated financial need and the defeat of Senate Amendment "A".

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies

and Gentlemen of the House: I am not going to speak happily on this particular item except to say that the formula doesn't really react to the problem of the vocational schools in my judgment. We are always suggesting that the money is there but it doesn't appear to be there. This simply sets aside an amount of money specifically for the vocational students. If the two and one-half percent money that is set aside is not used, then it relates back to the University system.

I think in this day and age, when many of us are putting emphasis on the vocational schools, that you continue the policy as it is now where they might get some money, if any money is left over and that really is what the policy is, no matter how else it is spelled out, it really amounts to that. This simply sets aside a very small amount of money, two and one-half percent, that is available to these VTI students. If they don't use it, it goes back into the system.

I urge you to defeat the motion before us.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, would like to speak in favor of this amendment. I think it does a little bit for the VTI's. It is only going to amount to about \$17,000 to \$20,000 for financial aid to them but there are things that the VTI's don't get, they don't get the National Direct Student Loan money; they don't get SEOG federal monies and I don't think they get a great deal of the college study money so they are short-changed right across the board. In the past, up until this year, they have received no money under this MSISP scholarship fund. I think they should because they, too, are college students. They represent 10 percent of the students in the state and this bill will give them two and one-half percent of the financial aid money from this program.

I would support this amendment as it is written and comes to us this morning.

Representative Crouse of Caribou requested a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address one of the comments from one of my colleagues, Representative Crouse. He indicated that 47 students last time received this money. They received it because of an abnormality in the whole process. First of all, additional monies were allocated to the MSISP program and secondly, those 47 students who did get the money did not get it until March and April so virtually all of the academic year had gone by. As you can see, VTI students are placed way down low on the list because the tuition or fees aren't as great as the university.

I hope you would stick with your previous action and defeat this amendment.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Crouse.

Representative CROUSE: Mr. Speaker, Ladies and Gentlemen of the House: Again, I would just like to reinforce what I said earlier.

A need formula is based on fairness, what your cost of attendance is going into an institution. You have the cost at the VTI's at approximately 2900 for CMVTI; 2800 for EMVTI; 2400 for KVTI and so on. At the University of Maine, you have UMO, 5,000; USM, 4,500; UMF, 4,200

and then UMA has 3,100, a two year campus with no dorms, very similar to a community college and very similar to the VTI campuses throughout the State of Maine and they are sitting out there competing with all the other University of Maine campuses for that Student Incentive Scholarship Program.

Once again, are we going to set monies aside for UMA also? All this amendment is doing is setting aside monies, outside of the needs based on formula, outside of whether you need it or not, reserved for a particular institution or institutions in the State of Maine and I think that is unfair. I don't think that is why the formula was set up in the first place and I think you have got to vote here on fairness and not on whether we support the VTIs, whether we support the University of Maine, whether we support Maine Maritime Academy—we have to look at the actual formula whether this is fair to all students.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will, indeed, vote to indefinitely postpone this amendment. I am very happy today to be in agreement with the Representative from Caribou, Representative Crouse. He has done a very good job of explaining this.

I guess my criteria for supporting this is the question of whether we grant money according to a student need or according to what school they attend and I hope we will choose the money according to the student need.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: There is one added bit of information that you should know about the need based formula that is used here. When you go to a school like Bowdoin, Bates or Colby and the cost of attending is \$14,000, you could be from a home of a \$35,000 income and be eligible for MSISP money, this is never going to happen down to the VTIs because of the base. They do not have to pay \$14,000 but the students that go to the VTIs, many of them are just as needy, they happen to be just a little bit older. The average age is about 23 years old and a lot of them are independent students, they are not with their fathers and mothers so I think they need this little bit of help.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Roberts.

Representative ROBERTS: Mr. Speaker, Ladies and Gentlemen of the House: I think the original purpose of this bill was to remove the VTI students from competing with Bowdoin, Bates and Colby and that was and is accomplished in the bill. So, under the bill, they will no longer be competing but what the amendment does is not only they do not have to compete with Bowdoin, Bates, and Colby, they don't have to compete with the University of Maine in Augusta, Farmington and the rest of the university system.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Brown.

Representative BROWN: Mr. Speakers, Ladies and Gentlemen of the House: I would just like to remind everyone that this bill was a bill that was recommended to the Education Committee and we spent many, many hours on it. The majority of the committee decided that the way the bill was written was the fairest way to go so I hope that you will support the motion to indefinitely postpone the amendment.

The SPEAKER: The pending question before the House is the motion of the Representative from Caribou, Representative Crouse, that Senate Amendment "A" (S-88) be indefinitely postponed. Those in favor will vote yes;

those opposed will vote no.

ROLL CALL No. 68

YEAS:—Armstrong, Begley, Bell, Bost, Bragg, Brannigan, Brown, A.K.; Cahill, Callahan, Carter, Chonko, Coles, Connors, Cooper, Crouse, Davis, Dexter, Diamond, Duffy, Erwin, Foss, Foster, Greenlaw, Gwadosky, Hale, Harper, Hayden, Hepburn, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Jackson, Lacroix, Lawrence, Lebowitz, Lisnik, MacBride, Manning, Martin, H.C.; Matthews, Mayo, McCollister, Mills, Mitchell, Murphy, T.W.; Nadeau, G.R.; Nicholson, Parent, Paul, Pines, Priest, Randall, Rice, Richard, Rioux, Roberts, Rotondi, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Taylor, Theriault, Warren, Webster, Wentworth, Weymouth, Whitcomb

NAYS:—Aliberti, Allen, Baker, A.L.; Baker, H.R.; Bonney, Boutilier, Brodeur, Brown, D.N.; Carrier, Carroll, Cashman, Clark, Connolly, Cote, Crowley, Daggett, Descoteaux, Dillenback, Drinkwater, Handy, Hichborn, Hickey, Hillock, Hoglund, Jacques, Joseph, Kane, Lander, Law, Lord, Macomber, Masterman, McGowan, McHenry, McPherson, Melendy, Michael, Michaud, Moholland, Murphy, E.M.; Murray, Nadeau, G.G.; Nelson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Perry, Pouliot, Racine, Reeves, Ridley, Rolde, Ruhlman, Rydell, Salsbury, Scarpino, Seavey, Simpson, Strout, Swazey, Tammamro, Tardy, Telow, Vose, Walker, Willey

ABSENT:—Beaulieu, Bott, Dellert, Farnum, Jalbert, Kimball, McSweeney, Zirkilton, The Speaker

75 having voted in the affirmative and 67 in the negative with 9 being absent, the motion did prevail.

Whereupon, the Bill was assigned for Second Reading, Monday, May 20, 1985.

Non-Concurrent Matter

An Act to Require Eye Protection for Persons Riding Motorcycles (H.P. 465) (L.D. 666) (C. "A" H-111) which was passed to be enacted in the House on May 10, 1985.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in the non-concurrence.

The House voted to recede and concur.

Messages and Documents

The following Communication:

DEPARTMENT OF FINANCE

AND ADMINISTRATION

BUREAU OF CENTRAL COMPUTER

SERVICES

STATE OFFICE BUILDING

STATE HOUSE STATION 61

AUGUSTA, MAINE 04333

May 9, 1985

Governor Joseph E. Brennan and Members of the 112th Legislature:

In accordance with Chapter 41 of the Resolves of 111th Legislature, the attached report of findings is hereby submitted. As instructed in the Resolve, this is a combined report of the Department of Human Services, the Department of Mental Health and Mental Retardation, the Division of Community Services of the Executive Department, and the Bureau of Central Computer Services of the Department of Finance and Administration.

This report contains the findings of the Departments; descriptions of current systems and planned improvements for the Division of Community Services, the Department of Human Services and the Department of Mental Health and Mental Retardation; descriptions of interdepartmental information sharing efforts and finally a commitment to future report accomplishments and future plans for data streamlining efforts.

On page 15 if this report, we have committed to issuing (through the Interdepartmental Committee) reports to the Human Resources

Committee in December, 1985 and December, 1986.

Respectfully Submitted,
S/ ARTHUR W. HENRY, Jr.
Director, Central Computer Services

On behalf of the:
Department of Human Services
Department of Mental Health and
Mental Retardation

Division of Community Services
Bureau of Central Computer Services

Was read and with accompanying report ordered placed on file.

The following Communication:

State of Maine

OFFICE OF THE GOVERNOR

AUGUSTA, MAINE 04333

To the Honorable Members of the 112th Maine Legislature:

I am returning without my signature or approval L.D. 1379, "An Act to Require Notice of Smoking Policy in Restaurants."

The bill addresses an issue of concern to many Maine citizens, and to me as Governor: namely, how to control the effects of smoking in public places.

Already this year I have signed into a law two bills dealing with the subject. The first prohibits smoking in retail stores over a certain size. The second requires all businesses to establish smoking policies for their work areas. In each bill there are civil penalties and fines established for violators.

This bill is like the two I have signed already, in that it deals with the effects of smoking in public places. It is unlike the other two, however, in that it does not include any sanction for those who violate the law.

The absence of sanctions renders the bill meaningless. Some would obey the law, but others would not. In effect, this bill is little more than a recommendation by the Legislature that restaurants have a smoking policy.

Laws without teeth, like laws that are not enforced, should not be part of the Maine statutes. They foster disrespect for the law and our legal institutions—including the Legislature.

For this reason, I must veto this bill.

Sincerely,
S/ JOSEPH E. BRENNAN
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Require Notice of the Smoking Policy in Restaurants" (H.P. 970) (L.D. 1379)

On motion of Representative Diamond of Bangor, tabled pending reconsideration and specially assigned for Monday, May 20, 1985.

Petitions, Bills and Resolves Requiring Reference

The following Bills and Resolves were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Business and Commerce

Bill "An Act to Permit the Incorporation of Subsidiary Trust Companies" (Emergency) (H.P. 1056) (L.D. 1536) (Presented by Representative BRANNIGAN of Portland) (Cosponsors: Senator BUSTIN of Kennebec, Representatives TELOW of Lewiston and ARMSTRONG of Wilton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Bill "An Act to Limit the Grounds for Termination of an Insurance Agency Appointment" (Emergency) (H.P. 1057) (L.D. 1537) (Presented by Representative BRANNIGAN of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed.)

Sent up for concurrence.

Energy and Natural Resources

RESOLVE, Authorizing the Exchange or Sale of Certain Public Reserved Lands (H.P. 1060) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Representative MICHAUD of Medway, Senators USHER of Cumberland and PERKINS of Hancock) (Ordered Printed.)
Sent up for concurrence.

Orders

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:
ORDERED, that Representative John A. Aliberti of Lewiston be excused May 13 and 14 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Carol Allen of Washington be excused May 17 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Joseph W. Mayo of Thomaston be excused May 9 and 10 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Charles R. Priest of Brunswick be excused May 21, 22, and 23 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jeffery N. Mills of Bethel be excused May 9 and 10 for legislative business.
Was read and passed.

On motion of Representative SMITH of Island Falls, the following Joint Resolution: (H.P. 1059) (Cosponsors: Representatives CARROLL of Gray, McPHERSON of Eliot and STEVENSON of Unity) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

JOINT RESOLUTION MEMORIALIZING THE SECRETARY OF TRANSPORTATION, THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS OF THE UNITED STATES TO ESTABLISH A SAFETY REQUIREMENT PROVIDING FOR THE INSTALLATION OF SEAT BELTS FOR PERSONS RIDING IN OPEN-BACK VEHICLES

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Twelfth Legislature, now assembled, most respectfully present and petition the Honorable Elizabeth Dole, Secretary of Transportation; the Honorable Ronald W. Reagan, the President of the United States; and the Congress of the United States, as follows:

WHEREAS, the United States Code, Title 15, Section 1392. (d), outlines the supremacy of federal safety standards for all types of motor vehicles; and

WHEREAS, these federal standards do not require seat belts in open-back motor vehicles; and

WHEREAS, as a result, no state, or political subdivision of a state, has the authority to require safety equipment beyond the federal standard; and

WHEREAS, there is great concern over injuries and death of people being thrown from or falling out of the back of open-back vehicles and the inability of the State of Maine to correct this problem; now, and therefore, be it

RESOLVED, That We, your Memorialists, do hereby respectfully urge the Secretary of Transportation, the President of the United States and the Congress of the United States to establish a safety requirement by regulation or legislation to provide for installation of seat belts for all persons riding in open-back vehicles (pickups); and be it further

RESOLVED, That a copy of this resolution, duly authenticated by the Secretary of State, be transmitted by the Secretary of State to the Secretary of Transportation, the President of the United States, the President of the Senate and the Speaker of the House of Representatives in the Congress of the United States and to each member of the Senate and House of

Representatives in the Congress from this State.

Was read and adopted and sent up for concurrence.

Special Sentiment Calendar

Recognizing:

Matthew "Matt" Luce, age 13, of Wilton, whose quick and courageous action was credited with saving a man's life when the man's canoe capsized on Wilson Lake during a sudden squall on May 4, 1985; (HLS 395) by Representative ARMSTRONG of Wilton. (Cosponsor: Senator ERWIN of Oxford)

On motion of Representative Armstrong of Wilton, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Ladies and Gentlemen of the House: Once in awhile an act of uncommon courage and bravery takes place and I think it is worthy that this body make note of such acts when they occur.

We have a young man in Wilton by the name of Matt Luce, who is 13 years old and in the 8th grade, stands 5 feet tall and weighs 95 pounds. A couple of Saturday's ago, fighting brisk winds and two foot waves, 13 year old Matt Luce became a key figure in a rescue of a canoeist who capsized in the icy waters of Wilson Lake. It was a little after two in the afternoon when Matt returned from a baseball game, drove his bike into the family driveway on the shores of Wilson Lake and straight ahead in the midst of the choppy windblown waters, he spotted an unidentified object making unusual movements. Matt hurried into the house, picked up his binoculars and quickly saw that a man had capsized from his canoe and was struggling to keep his head above water. Matt's first thought was, "I've got to help him." Despite his admitted nervousness, Matt ran into the garage, picked up a paddle and a life jacket, then to the lake shore to hoist the 65 pound kayak into the water. "I put it in as fast as I could," said Matt. The lake had about two foot waves. I started to paddle out and started back because of the waves, then decided to head back out again. I was paddling right through the waves and the water was coming up all over me." Once Matt arrived, he found a man by the name of Desjardin, who was having problems holding onto the canoe. "I tried talking to him but it didn't help, said Matt." He thought, I had better get someone else's help. By this time, Desjardin and his canoe had drifted about 25 yards down the lake toward the point. Matt paddled as quickly as he could through the cold blustery waters for about a half mile across the lake to the opposite shore. Incidentally, that is the shore that I live on. Learning that he couldn't get help there, he ran to the next house where he met 21 year old Steve Gordon. The two of them then sprinted to the lakeside house of Owen Morgan, who lives next door. While the elder Morgan immediately called the police and Gordon paired up with Paul Morgan, Matt scampered to the lake's edge with two life jackets and two paddles preparing the Morgan canoes for Morgan and Gordon. From shore, Matt saw that Morgan and Gordon also capsized, once they reached Desjardin. This time there were two capsized boats in the water and three people in the water. A few minutes later, a motorboat commandeered from Larry Stinchcomb by Wilton Police Officer, Terry Warden and driven by 14 year old Scott Stinchcomb, all three men were safely rescued from the lake. Desjardin was taken to Franklin Memorial Hospital in Farmington, where he was treated for hypothermia.

Asked if he would do it all again, "yes," said Matt. "If I saw someone drowning, I would do

it again. I feel real happy that I could help and everyone said I did a real good job."

Subsequently, the Order was passed and sent up for concurrence.

Reports of Committees**Unanimous Ought Not to Pass**

Representative MURRAY from the Committee on Business and Commerce on Bill "An Act to Protect Health Benefits for Divorced Spouses" (H.P. 831) (L.D. 1175) reporting "Ought Not to Pass"

Representative McGOWAN from the Committee on Appropriations and Financial Affairs on RESOLVE, Reimbursing Counties which Provide Space to Superior Courts (H.P. 554) (L.D. 826) reporting "Ought Not to Pass"

Representative MASTERMAN from the Committee on Legal Affairs on Bill "An Act to Transfer the Power to Issue Concealed Weapon Permits to the Commissioner of Public Safety" (H.P. 187) (L.D. 221) reporting "Ought Not to Pass"

Representative NICKERSON from the Committee on Legal Affairs on Bill "An Act to Provide Retailers of Malt and Vinous Beverages with a 7-Working Day Credit Period" (H.P. 443) (L.D. 625) reporting "Ought Not to Pass"

Representative BOTT from the Committee on Legal Affairs on Bill "An Act to Provide a Uniform Waiting Period Prior to the Purchase of a Handgun" (H.P. 597) (L.D. 867) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Amend Municipal General Assistance" (H.P. 791) (L.D. 1121) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative HIGGINS from the Committee on Taxation on Bill "An Act Concerning the Property Tax Lien Process" (H.P. 902) (L.D. 1297) reporting "Leave to Withdraw"

Representative WEBSTER from the Committee on Utilities on Bill "An Act to Amend the Charter of the Portland Water District" (H.P. 652) (L.D. 922) reporting "Leave to Withdraw"

Representative MURRAY from the Committee on Business and Commerce on Bill "An Act to Establish a Maine Self-service Storage Act" (H.P. 234) (L.D. 275) reporting "Leave to Withdraw"

Representative NADEAU from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase the Number of Revenue Agents" (H.P. 693) (L.D. 988) reporting "Leave to Withdraw"

Representative NELSON from the Committee on Human Resources on Bill "An Act Relating to Removal of Children from Certain Foster Homes" (H.P. 994) (L.D. 1431) reporting "Leave to Withdraw"

Representative McSWEENEY from the Committee on Aging, Retirement and Veterans on Bill "An Act Relating to a 5-year Review Period under the Retirement Laws" (H.P. 97) (L.D. 122) reporting "Leave to Withdraw"

Representative REEVES from the Committee on Legal Affairs on Bill "An Act Allowing for Voter Registration at a Polling Place on Election Day" (H.P. 823) (L.D. 1164) reporting "Leave to Withdraw"

Representative REEVES from the Committee on Legal Affairs on Bill "An Act Relating to Residency Requirements under the Election Laws" (H.P. 135) (L.D. 160) reporting "Leave to Withdraw"

Representative MURPHY from the Committee on Legal Affairs on Bill "An Act to Establish the Last Friday in October Preceding a General Election as the Final Day for Voter Registration" (H.P. 94) (L.D. 114) reporting "Leave to Withdraw"

Were placed in the Legislative Files without

further action pursuant to Joint Rule 15 and sent up for concurrence.

Ought to Pass in New Draft

Representative MACOMBER from the Committee on Transportation on RESOLVE, Concerning the Establishment of a Social Services Transportation Review Committee (H.P. 466) (L.D. 667) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1053) (L.D. 1529)

Report was read and accepted. The New Draft read once and assigned for second reading Monday, May 20, 1985.

Ought to Pass in New Draft

Representative SALSBURY from the Committee on Local and County Government on Bill "An Act to Increase Citizen Participation in the Municipal Charter Revision Process" (H.P. 658) (L.D. 930) reporting "Ought to Pass" in New Draft (H.P. 1054) (L.D. 1530)

Report was read and accepted. The New Draft read once and assigned for second reading Monday, May 20, 1985.

Ought to Pass in New Draft

Representative RYDELL from the Committee on Business and Commerce on Bill "An Act to Require Final Usage Labeling for all Surimi Products" (H.P. 633) (L.D. 901) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1052) (L.D. 1528)

Report was read and accepted. The New Draft read once and assigned for second reading Monday, May 20, 1985.

Ought to Pass in New Draft

Representative WENTWORTH from the Committee on Local and County Government on Bill "An Act Pertaining to Municipal Licensing Fees" (H.P. 501) (L.D. 704) reporting "Ought to Pass" in New Draft (H.P. 1058) (L.D. 1538)

Report was read and accepted. The New Draft read once and assigned for second reading Monday, May 20, 1985.

Ought to Pass in New Draft

Representative REEVES from the Committee on Legal Affairs on Bill "An Act Pertaining to Polling Times" (H.P. 86) (L.D. 106) reporting "Ought to Pass" in New Draft (H.P. 1061) (L.D. 1540)

Report was read and accepted. The New Draft read once and assigned for second reading Monday, May 20, 1985.

Ought to Pass in New Draft

Representative PAUL from the Committee on Legal Affairs on Bill "An Act to Remove the Time Limit for Tabulating Election Returns and the Requirement for the Presence of the Municipal Officers" (H.P. 186) (L.D. 220) reporting "Ought to Pass" in New Draft (H.P. 1062) (L.D. 1541)

Report was read and accepted. The New Draft read once and assigned for second reading Monday, May 20, 1985.

Ought to Pass in New Draft

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Assure Appropriate Education and Treatment of People who are Deaf or Hearing Impaired" (H.P. 522) (L.D. 742) reporting "Ought to Pass" in New Draft (H.P. 1064) (L.D. 1543)

Report was read and accepted. The New Draft read once and assigned for second reading Monday, May 20, 1985.

Ought to Pass in New Draft/New Title

Representative NICKERSON from the Committee on Legal Affairs on Bill "An Act Concerning Nomination Petitions for Independent Candidates" (H.P. 797) (L.D. 1127) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Nomination

Petitions for Unenrolled Candidates" (H.P. 1063) (L.D. 1542)

Report was read and accepted. The New Draft read once and assigned for second reading Monday, May 20, 1985.

Divided Report

Majority Report of the Committee on Legal Affairs on Bill "An Act to Repeal Requirements that Agency Liquor Stores be at Least 10 Miles Apart" (H.P. 62) (L.D. 80) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning the Location of Agency Liquor Stores and the Licensing of Seasonal Agency Stores" (H.P. 1047) (L.D. 1522)

Signed:

Senators:

TRAFTON of Androscoggin
NAJARIAN of Cumberland

Representatives:

REEVES of Pittston
PERRY of Mexico
PAUL of Sanford
RIOUX of Biddeford
WARREN of Scarborough
DILLENBACK of Cumberland
MURPHY of Berwick
BOTT of Orono
NICKERSON of Turner

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

Signed:

Senator:

STOVER of Sagadahoc

Representative:

MASTERMAN of Milo

Reports were read.

Representative Reeves of Pittston moved the acceptance of the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Milo, Representative Masterman.

Representative MASTERMAN: Mr. Speaker, Men and Women of the House: I rise very briefly today because I recognize the handwriting on the wall. I think we should have this come to a roll call, which I will ask for now.

We are dealing with the most addictive chemical substance I think known to man. What we are talking about is expanded sales. I have some concern with that but my biggest concern is the fact that I am for good control of the sale of alcoholic beverages and I feel that the state stores do a better job handling the sale of alcoholic beverages than the agency stores. I don't have any problem in some remote area where there are agency stores but I feel that every expansion is a further erosion of the viability of the state stores, something that I am not in favor of, so I would ask that some of you would support me in my effort to oppose this measure that is before you. Once again, I ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Men and Women of the House: I would like to explain what the majority of the committee did with this request that we had in several legislative bills to take a look at the ten mile limit which exists between any agency store and a State Liquor Store. What this bill does is, it very slightly liberalized the definition of the ten mile limit saying that the ten miles shall be determined by the most reasonable direct route of travel between the state store and the agency store rather than as the crow flies.

It also gives the commission the ability to establish up to six seasonal agency stores in areas that the commission determines based on the increased population of the season. If you look at the Statement of Fact of the bill, I think it is pretty clear. The commission will determine the location of the seasonal agency stores based in the data concerning the areas

of the state which experience increased population on a seasonal basis, the weekly sales volume of existing state and agency stores located in the same or nearby areas, and all areas may be considered including ski areas as well as summer vacation sites.

There is also a sunset on this bill of September 30, 1989 and the Bureau of Alcoholic Beverages and the State Liquor Commission are required to investigate the effectiveness of the new license and report back to the Legislature.

So, I hope that you will vote on this roll call to support the Majority Report.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: The changing of the radius to road miles is something which affects my area and I am very much concerned about it. I had a ruling from the Attorney General's Office and radius means just what it means, radius. The stores had been placed by using road miles and that is why they tried to change it but you can set in the office here in Augusta and determine radius and, if you want to do road miles, you have to go and measure them. They can save a little money by setting in the office in this case.

I hope you would vote against this bill, it is not one that I think we need. We are pushing the sales of liquor and, with all the problems we have, it seems to me we should be going the other way and restrict it.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Reeves of Pittston that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 69

YEAS:—Aliberti, Allen, Armstrong, Baker, H.R.; Bonney, Brannigan, Cahill, Callahan, Carrier, Carroll, Carter, Cashman, Coles, Connolly, Cooper, Cote, Daggett, Davis, Descoteaux, Diamond, Dillenback, Duffy, Erwin, Foss, Greenlaw, Gwadosky, Hale, Hayden, Hichborn, Hickey, Higgins, H.C.; Hoglund, Ingraham, Jackson, Jacques, Joseph, Kane, Lacroix, Lawrence, Lebowitz, Lisnik, Lord, Macomber, Manning, Martin, H.C.; Mayo, McGowan, McPherson, Melendy, Michaud, Mills, Mitchell, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, P.E.; Paul, Perry, Pines, Pouliot, Priest, Racine, Randall, Reeves, Richard, Ridley, Rioux, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Salsbury, Soucy, Stevens, P.; Swazey, Taylor, Telow, Theriault, Vose, Warren, Webster, Wentworth, Whitcomb

NAYS:—Baker, A.L.; Begley, Bell, Bost, Boutillier, Bragg, Brodeur, Brown, A.K.; Brown, D.N.; Chonko, Clark, Connors, Crowley, Dexter, Drinkwater, Foster, Handy, Harper, Hepburn, Higgins, L.M.; Hillock, Holloway, Lander, Law, MacBride, Masterman, Matthews, McHenry, Moholland, Paradis, E.J.; Parent, Rice, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, C.B.; Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Tammaro, Tardy, Walker, Weymouth, Willey

ABSENT:—Beaulieu, Bott, Crouse, Dellert, Farnum, Jalbert, Kimball, McSweeney, Michael, Zirkilton, The Speaker

90 having voted in the affirmative and 50 in the negative with 11 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for Second Reading

Monday, May 20, 1985.

Divided Report

Majority Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act Concerning an Oil Booming Exemption for Oil Transfer Vessels in Searsport Harbor" (Emergency) (H.P. 898) (L.D. 1293)

Signed:

Senators:

USHER of Cumberland
KANY of Kennebec

Representatives:

MICHAUD of Medway
JACQUES of Waterville
MITCHELL of Freeport
COLES of Harpswell
HOGlund of Portland
BROWN of Livermore Falls

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

Signed:

Senator:

EMERSON of Penobscot.

Representatives:

RIDLEY of Shapleigh
DEXTER of Kingfield
HOLLOWAY of Edgecomb
LAW of Dover-Foxcroft

Reports were read.

Representative Michaud of Medway moved acceptance of the Majority "Ought Not to Pass" Report.

Mr. Speaker, Men and Women of the House: The majority of the committee voted "Ought Not to Pass" on this bill. I will briefly explain the purpose of the bill. The bill is straight forward and the purpose is to overturn an order from the Board of Environmental Protection which was issued in August, 1984 and, at that time, the board refused to continue an exemption from booming requirements for an oil transferred vessel at Sears Harbor. The reason why the majority of the committee felt this bill should not pass is, currently under our present statutes, there is a procedure that if an applicant does not like what the board has done, they can take it to court. At the time we heard the public hearing, the case was in court. Incidentally, after the public hearing, they decided to drop the case. The majority of the committee still felt that if Irving Oil had such a strong case that they would proceed through the court procedure—the committee is not saying that what the board has done was right or wrong—at the hearing, I asked if there were any problems with the rules and regulations the way the board decided, there was no problem, the problem came in the way the board ruled. If there is a problem with the rules, I have no problem changing the rules but there is no problem there. The problem is that the board denied the application and I think it is a bad precedent for us to interfere in a board decision. If there is a problem with the rules, I say, let's change them but if there is not problem, let's not change them. There is a procedure already in the statutes which would allow an applicant to take the board to court to overrule the board decision.

So, I would hope you would join me in supporting the Majority "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: I thought a man that lived up in the mountains ought to get up and explain why he voted the way he did here on a coastal bill. After listening to the testimony carefully, I decided that, "if it ain't broke, why fix it?" These people have been operating for years without a single incident. They have a group—I believe it is called PROPAC that takes care of these spills. We have two different situations here. We have a harbor in Portland that is protected and one in Searsport that is

not. I am not going into the technical details of waves and currents and so many knots because somebody will do that later. I feel that maybe we're the people's court here in some cases. I just thought I would get up and explain why I voted the way I did after listening to several people my age that had been piloting boats there and the Coast Guard testified and so I just more or less relied upon their testimony.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Law.

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: I now have an opportunity to pay the coach back. During the testimony, every expert that testified, the Coast Guard, the boat captains, tug operators, pilots, they all testified that what was going on now was the best way to go. There has been reference to overturning the board's decision but I firmly believe that if we sit here and we see that a board has made a mistake, it is our responsibility to overturn it. That is where I am coming from.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going against the majority on this committee, they are going against me because I am the sponsor of this bill. In 1974, the Department of Environmental Protection granted an exemption of oil booming requirements to Searsport Harbor Oil Terminals. The exemption was also given to terminals in Bucksport, Brewer and Bangor. The reason for the exemption was the impracticability of booming in these ports. Impracticable because of the nature of the waves, the current and the waters. It is possible to put a boom around a ship in Portland Harbor, four river terminals, when they are transferring oil because it is a closed type harbor, not open water and not like Penobscot Bay and Penobscot River. DEP regulations for Searsport say that about 70 percent of the time they should be able to boom an oil vessel. For starters, who and how does one decide that it is boomable weather? During the DEP study last summer, they had a so-called professional booming company install a boom around an oil vessel and about an hour later, the winds came up to about 30 knots and the experts had a devil of a time hauling their boom back to shore. In fact, the local workers, the PROPAC workers, who handle the booming, who are trained, went out and rescued this boom and the people. You cannot predict when the high wind and the high seas will develop. Booms cannot be hauled in stormy weather. In fact, they would be useless in stormy weather even if they could be put in place during a storm. In fact, it could be danger to the vessel if a boom trapped it at a dock.

DEP decided to lift Searsports exemption but not Bangor, Brewer and Bucksport. This causes another problem for Searsport, Bucksport, Bangor and Brewer terminals have formed an association collectively and developed an excellent program for booming oil transfer vessels that has worked successfully since 1974. The group is the Penobscot River Oil Pollution Abatement Committee called PROPAC. This change in the regulation, and it is a regulation, will break up the PROPAC organization that has worked without a flaw since 1974. DEP, as you know, makes some mistakes at times and this is one of them. PROPAC, the member terminals at Searsport are Sprague Oil, Irving Oil and the Air Force. They have developed a workable efficient, effective system for dealing with oil spill, if and when they occur. Searsport Oil Terminals are not in competition with the Portland Oil Terminals. They serve a different market but they are in competition with Bucksport, Brewer and Bangor terminals. So, this would be another blow to the Waldo

County economy and, as you know, we all talk about Washington County but Waldo County has a 15 percent unemployment and the closest to that today is 12.

I attended the DEP hearings last summer and heard the testimony by the young staff person who did the so-called study. I also heard the testimony of the weather expert, the meteorologist from UMO. The professor in testimony said this, the only place that wind data is officially taken by the United States Government is in Caribou and Portland Jetport. So, I chose Portland Jetport data to base the study on, since qualitatively, it seems to be about the same as a couple of months of wind data taken by DEP and since we have a ten year set of data in Portland. So that staff person who has probably never been on an oil vessel or the professor who chose to use the Portland Jetport weather data decided that oil transfer vessels in Searsport could be and should be boomed at all times except for times when waves would be at one and a half feet or higher and the wind and current was not favorable, which I guess would be about 30 percent of the time, because we weren't sure.

It gets ever more preposterous—they claim the worst months would be the months of May through September. They must live indoors all winter in Maine. God forbid, if one should try to boom a vessel during a blizzard in the cold of winter. The DEP Commission voted six to four in accepting the staff report in testimony—I begged the commission to visit Searsport to see what they were voting on. They didn't. I have been there in the winter, summer and spring. The PROPAC team practices booming under the guidance of the U.S. Coast Guard and DEP. The testimony proved that PROPAC has done an excellent job for 11 years and there is no need of hiring an unknown team of outsiders to sit around Searsport docks waiting for boomable weather.

In closing, frequently DEP and other bureaucrats make faulty regulations that the legislature must correct. This is now new or different. It is our government functioning to protect business at times against the DEP. This bill will protect Searsport until 1988. At the public hearing this past summer and at a public hearing on the L.D., we had experts from the oil industry as Representative Law told you, we had the pilots, railroad people, United States government people, the local Searsport government and they all said that full-time booming is not practical. The expert opinion came from the people who work with the industry. In fact, one man in the State of Maine has been singled out and, he was singled out at the hearing, as the expert in the booming of oil transfer of vessels. He told the committee that DEP was wrong. He knows what PROPAC has done and will continue to do to protect the waters of Searsport. He was emphatically opposed to the DEP regulations. The full-time booming business is not required in other states and it should not be required of Searsport. It would be dangerous, inefficient and expensive. Please believe me, this must be corrected. This legislation, sunsetted in 1988, is the only solution and our hope. We can protect the waters of Searsport but what we need is protection from the DEP.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: As you can read from the report, I am in some rather unfamiliar territory on this bill. I was in even more unfamiliar territory when we started talking about booming. I didn't have the slightest idea what booming was. In fact, in the back of my mind, I thought booming must occur when there is an oil spill out there somewhere, somebody throws a match and the whole thing goes boom. Well, much to my surprise, that wasn't the case.

Nevertheless, I rolled up my sleeves and listened very carefully to the testimony that was heard or that was offered. Up until this point, the proponents have been speaking about the technical aspects of the bill before us, the technical aspects of the application before the Board of Environmental Protection. What I would like to talk about for just a moment is policy, the policy of this legislature and the policy of the State of Maine. The legislature gave the DEP, when it was developed, the authority to develop regulations in air, water and land issues. As a result of all that part of that legislation, it included a citizens board called the BEP or the Board of Environmental Protection. This is finally the group that votes on each of these applications which comes before it. The board responds both to its technical staff and to the applicants and their witnesses before making their decision. In this particular case, hundreds and hundreds of hours I am sure, were spent by not only the staff of the DEP but also the staff of the research and expert witnesses of the applicant, in this case, Irving Oil. Their arguments were made and finally a decision had to be made by the board and, unfortunately for Irving Oil Company, that decision was six to four.

At that point, Irving Oil Company did have an option, it could take the matter to court, which as Representative Michaud told you, happened. When they came to us with the legislation, the issue was pending before the court. It does seem to me that if they had such a good case and, as I listened to the testimony, I had to admit that to somebody who knows nothing about booming and even less about watercraft, it sounded like a good case to me but we spent two or three hours listening to the testimony. I frankly didn't feel qualified to make a technical kind of decision in this kind of application. However, I did feel qualified to make a decision based on policy and the policies that this state has. Right or wrong, we have established it. We have established that procedure for an applicant making applications to the DEP and finally being decided by the BEP and either living with that decision or taking it to court. Of course, the final step always can be to come back to the legislature. But I think the problem that occurs here is that we are acting—what we are trying to do—we are intervening in that process. That really bothers me. I think it is wrong and I think it is establishing a bad precedent.

If this passes, I think that you can look at all the regulatory agencies, the DEP, the Land Use Regulation Commission, the PUC, Division of Health Engineering and others which are daily considering regulatory kinds of applications and whenever one of your constituents receives an adverse decision on the part of the regulator, well bring it to the legislature and overturn it. I am not a fan of regulators, as I think you all know, but that process is in place, it exists. Either we change it where it is wrong or we don't interfere with it.

I don't think that we have the ability here to determine whether or not DEP made a mistake. If they did make a mistake, it seems to me that the court would be the logical place for that to be determined.

You may recall a few weeks ago we voted on extending the time frame for the Big A hearing. And the overwhelming concern on the part of this legislature was we were interfering in a process that has been established and we should not be doing that. The same holds true today.

My final concern is that the BEP, Board of Environmental Protection, along with many, many other commissions and boards in the state, I believe is going to be dealt a disservice if we pass this legislation today. I think it is going to be more difficult for the Governor, any governor, this present governor or future governors, to appoint good people to those boards if they are going to be left with the impression

that their decisions can be overturned at any time by the legislature. If there were not an appeal process, then I would be all for it. I would assume that the legislature provided the appeal process. But in this case, the appeal process is there, Irving Oil Company opted to use it initially and then when it came before the legislature, withdrew the court case. I think the whole thing would establish a very bad precedent and I would urge you to accept the Majority "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Drinkwater.

Representative DRINKWATER: Mr. Speaker and Members of the House: Very briefly, I rise today to support the Representative from Stockton Springs, Representative Crowley, in his presentation on this matter. This is my area in a sense—it is his legislative district, but I was born and brought up in the area and I have spent a lot of time there with Representative Crowley looking and watching the tides, etc. to make sure that what we were saying we felt sure of—at least I feel quite sure of. I am glad that Representative Brown brought up the vote of the committee, which was six to four, which must have been some doubt in the experts minds. I just rise today to make sure that you understand where I am coming from and I am coming from the same place Representative Crowley is coming from to protect our people in our area and the town of Searsport and not have unfair competition with Bucksport which is only eight miles down the road.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: It is really unusual for the Representative from Livermore Falls and myself to agree on an issue and we do agree on this issue but, when you look at the issue, I don't think you will find it so surprising that I agree with the conservative views of Representative Brown which support the system that has been established over the years.

The board was established by law and it has been given certain responsibilities including the responsibility to issue permits and establish rules. The person who doesn't like those rules has the choice of appealing them in Superior Court. Irving Oil Company, which does not like the rules, has the resources to go to court and they chose to do so, but after a while in court, they decided to withdraw the case. I would ask you to support the Majority Committee Report.

Imagine if you will, if every time someone didn't like an administrative decision that was made by a board or an agency, they came to the legislature and overturned the law. We wouldn't be leaving here on June 19th, we would be leaving here on the 31st of December and be coming back the day after New Years to start up where we left off.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker and Members of the House: I rise today to ask you to consider simply the practicality of the decision that was made by the Department of Environmental Protection. The decision of the bureaucrats in Augusta was based on information of their own and apparently not the information of the experts, many of whom testified in the committee hearing. Many qualified ocean experts feel that booming, because of the river currents and the ocean conditions, is simply a ridiculous requirement at Searsport. So I only rise and appeal to the common sense that this is not a sensible extension of the rules to the Searsport condition.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Law.

Representative LAW: Mr. Speaker, Ladies and

Gentlemen of the House: I just wanted to add one more point. There have been several references as to why Irving dropped their court case. At the hearing, it was implied very strongly that the committee should not get into the middle of a court case. So they withdrew it because of that reason.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: The testimony of Irving Oil Company I think is kind of unfair. That is just one of three companies there and I think to say that this is some foreign outfit—the Sprague Oil Company has been there for years and years and years and they are well established and the United States government terminals are there and all three oil terminals are in agreement with this thing and they think the 6 to 4 decision was wrong. For eleven years, since 1974, they have had no problems and I think we should let them keep doing this until 1988 and let that be a safe harbor down there.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I will be very brief, I just want to reiterate what Representative Brown and other members of the Majority Report had said. True, the board does make some rules and regulations. It is not the intent of this legislature. Currently, our committee is looking into some permits that they deal with at Jonesboro with regard to forest practices. We are looking into that matter where we are going to go over it very thoroughly and find out whether or not the board has that right to make those rules and regulations so it is not as if the committee is not keeping an eye on what DEP is doing. If DEP does make a mistake, there is currently in the statutes a provision where they can take it through the court procedure and I think it is a bad precedent for this body to start with dealing with different applications that comes before it.

I urge you to support the Majority "Ought Not to Pass" Report.

I would request a roll call.

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

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

Representative Michaud of Medway was granted permission to speak a third time.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I am surprised at the last vote. What the majority of the committee is saying is we are not experts down there. We had a hearing for a couple of hours, maybe the people who want the exemptions for the booming might be right—the issue, however, is whether or not this legislature is going to get into a precedent of overriding the board's decision.

There are certain statutes as I mentioned before—if the board made a decision, they did it unjustly, then the applicant can take that decision to court. I think it is bad, bad, bad precedent to get involved in this.

I asked at the hearing if there were problems with the rules and regulations and the answer was, no. The problem is they were upset with the board not granting that permit. I don't think that this body should get involved in that process. If there is a problem with the rules, I say: "let's change the rules." I have no problem with that. As I mentioned the last time I got up, this is what we are currently doing with the forest practices that the board decided

to get into so if there is a problem with the rules, let's change them, but if an applicant is denied because of what the board has done, I say let them take it to court.

The SPEAKER: The Chair recognizes the Representative from Bucksport, Representative Swazey.

Representative SWAZEY: Mr. Speaker, Members of the House: I rise today because Bucksport has been mentioned several times. There is a great deal of difference between Portland Harbor and Searsport Harbor. Portland is where the wind velocities and so forth don't change versus Searsport. In Portland, you can stand at the oil docks and you cannot see the open ocean; in Searsport, when you stand there, you look forever and you can see until the hull is down on the horizon.

It hasn't been mentioned and perhaps you are not aware but they don't boom for gasoline. It dissipates too rapidly. It is basically Bunker C. oil, heavy oil, and it comes in basically between October and January at the height of the heating season. The bay at Searsport are ice cakes and offshore winds and with the height of the waves, it is impractical to boom when the waves are in excess of one foot. Anything above one foot, it is impractical.

In regard to the DEP, I believe Representative Smith of Island Falls mentioned last week of their high handed manner and I don't consider the DEP a sacred cow such as in India or untouchable. I believe they have a payroll of 266 people, a \$20 million budget and I often think some of these rules they are making are maybe self-serving.

This would be about the only state on the Eastern Seaboard and the Gulf Coast that requires booming. One or two towns I believe do.

As far as other bills that have been mentioned affecting the departments, etc., I have been here long enough to know that, for instance, the Department of Fisheries and Wildlife, we had some changes made in the rules over there and there are about six measures that nobody has mentioned here on measured service that the people have presented in this House, which is a PUC decision. I just hope you would vote against the pending motion and give Searsport an opportunity to proceed as they have proceeded since 1974 with no problems whatsoever. There was never any testimony to say that there had been any problems whatsoever. The only time they might have had a problem was when they intentionally released some oil down there for clamming tests I believe it was when they intentionally released some oil down there for clamming tests I believe it was but I would hope you would vote against the pending motion.

Representative Crowley of Stockton Springs was granted permission to speak a third time.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think you have the message now. We are trying to protect ourselves until 1988 against the DEP changing this regulation on us. If you give us until 1988, I am sure we will convince them one more time that we have got the best system going. This is also going to interfere with the booming because PROPAC includes Bucksport, Bangor and Brewer. We are all in this PROPAC team together so it is going to affect that whole system that we have going.

The SPEAKER: The pending question before the House is the motion of Representative Michaud of Medway that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 70

YEAS:—Armstrong, Baker, H.R.; Boutillier, Brannigan, Brodeur, Brown, D.N.; Callahan, Carrol, Cashman, Chonko, Coles, Connolly, Cooper, Cote, Crouse, Descoteaux, Diamond, Handy, Hayden, Hoglund, Jackson, Jacques, Joseph, Kane, Lacroix, Lisnik, Mayo, McCollister, Melendy, Michael, Michaud, Mills,

Mitchell, Nadeau, G.G.; Nadeau, G.R.; Nelson, Priest, Reeves, Roberts, Rotondi, Rydell, Soucy, Warren, Willey

NAYS:—Aliberti, Allen, Baker, A.L.; Begley, Bell, Bonney, Bost, Bragg, Brown, A.K.; Cahill, Carrier, Carter, Clark, Connors, Crowley, Daggett, Davis, Dexter, Dillenback, Drinkwater, Duffy, Erwin, Foss, Greenlaw, Hale, Harper, Hepburn, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Holloway, Ingraham, Lander, Law, Lawrence, Lebowitz, Lord, MacBride, Macomber, Manning, Masterman, Matthews, McGowan, McHenry, McPherson, Mholland, Murphy, E.M.; Murphy, T.W.; Murray, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Parent, Paul, Perry, Pines, Pouliot, Racine, Randall, Rice, Richard, Ridley, Rioux, Rolde, Ruhlin, Salisbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, C.B.; Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Whitcomb

ABSENT:—Beaulieu, Bott, Dellert, Farnum, Foster, Gwadosky, Jalbert, Kimball, Martin, H.C.; McSweeney, Paradis, P.E.; Zirkilton, The Speaker

44 having voted in the affirmative and 94 in the negative with 13 being absent, the motion did not prevail.

Whereupon, the Minority "Ought to Pass" Report was accepted, the Bill read once and assigned for Second Reading Monday, May 20, 1985.

Divided Report

Majority Report of the Committee on Marine Resources on Bill "An Act Relating to Dragging Prohibited in the Frenchboro Area" (H.P. 941) (L.D. 1351) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to Scallop and Dragging in the Frenchboro Area" (H.P. 1055) (L.D. 1534)

Signed:

Senators:

CHALMERS of Knox
BROWN of Washington

Representatives:

CROWLEY of Stockton Springs
MANNING of Portland
SCARPINO of St. George
CONNORS of Franklin
SALSBURY of Bar Harbor
COLES of Harpswell
VOSE of Eastport
MITCHELL of Freeport
RUHLIN of Brewer

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

Signed:

Senator:

SHUTE of Waldo

Representative:

RICE of Stonington

Reports were read.

On motion of Representative Crowley of Stockton Springs, the House accepted the Majority "Ought to Pass" Report, the Bill read once and assigned for Second Reading Monday, May 20, 1985.

Divided Report

Majority Report of the Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-142) on Bill "An Act to Improve Remedies for Violations of Used Car Laws" (H.P. 806) (L.D. 1152)

Signed:

Senator:

BUSTIN of Kennebec

Representatives:

BRANNIGAN of Portland
MURRAY of Bangor
TELOW of Lewiston
ALIBERTI of Lewiston
MARTIN of Van Buren
STEVENS of Bangor
RYDELL of Brunswick

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

Signed:

Senators:

SEWALL of Lincoln
DANTON of York

Representatives:

HILLOCK of Gorham
BAKER of Orrington
ARMSTRONG of Wilton

Reports were read.

Representative Brannigan of Portland moved acceptance of the Majority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought to Pass" Report and specially assigned for Monday, May 20, 1985.

Divided Report

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Extend the National School Breakfast Program Availability to Maine School Children" (H.P. 563) (L.D. 834)

Signed:

Senator:

HICHENS of York

Representatives:

BOST of Orono
MATTHEWS of Caribou
ROBERTS of Farmington
LAWRENCE of Parsonsfield
FOSS of Yarmouth
BROWN of Gorham
CROUSE of Caribou
SMALL of Bath

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-146) on same Bill.

Signed:

Senators:

BROWN of Washington
GAUVREAU of Androscoggin

Representatives:

HANDY of Lewiston
O'GARA of Westbrook

Reports were read.

On motion of Representative Brown of Gorham, recommitted to the Committee on Education.

Consent Calendar

First Day

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

(H.P. 422) (L.D. 602) Bill "An Act to Amend Permit Procedures Relative to Final Disposition of Dead Human Bodies" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-136)

(H.P. 957) (L.D. 1377) Bill "An Act to Amend the Procedures of the State Board of Arbitration and Conciliation" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-137)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 20, 1985, under the listing of Second Day.

(H.P. 961) (L.D. 1382) Bill "An Act Relating to Municipal Regulation of Hazardous Waste and Chemical Substances" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-138)

On motion of Representative Michaud of Medway, was removed from the Consent Calendar, First Day.

Whereupon, the Committee Report was accepted, the Bill read once.

Committee Amendment "A" (H-138) was read by the Clerk and adopted and the Bill assigned for Second Reading Monday, May 20, 1985.

(H.P. 139) (L.D. 164) Bill "An Act Requiring Classification of Dates Upon Which Local Property Tax Penalties Accrue" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-139)

(H.P. 978) (L.D. 1410) Bill "An Act to Place the State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals Within the Department of Business, Occupational and Professional Regulation" (Emergency) Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-145)

(H.P. 972) (L.D. 1394) Bill "An Act to Modify the Voting Procedure for the Conversion of a Mutual Financial Institution to a Stock Form of Ownership" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-144)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 20, 1985, under listing of Second Day.

(H.P. 793) (L.D. 1123) Bill "An Act to Require Full Disclosure by Financial Planners" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-143)

On motion of Representative Brannigan, was removed from the Consent Calendar, First Day.

Whereupon, the Committee Report was accepted and the Bill read once.

Committee Amendment "A" (H-143) was read by the Clerk.

On motion of Representative Brannigan of Portland, tabled pending adoption of Committee Amendment "A" and specially assigned for Monday, May 20, 1985.

Consent Calendar Second Day

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

(S.P. 393) (L.D. 1092) Bill "An Act to Repeal the Minimum Size for Scallops"

(S.P. 512) (L.D. 1374) Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$20,000,000 to Match Available Federal Funds for Highway, Bridge and Airport Improvements"

(S.P. 326) (L.D. 815) Bill "An Act Relating to Theft Offenses" (C. "A" S-82)

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

(S.P. 369) (L.D. 1003) Bill "An Act to Amend the Law Pertaining to Postgraduate Education in the Field of Medicine" (C. "A" S-84)

On motion of Representative Rolde of York, was removed from the Consent Calendar, Second Day.

Whereupon, the Committee Report was accepted and the Bill read once.

Committee Amendment "A" (S-84) was read by the Clerk and adopted and the Bill assigned for Second Reading, Monday, May 20, 1985.

(H.P. 219) (L.D. 253) Bill "An Act Concerning the Allocation of Costs Incurred for Incarceration in County Jails" (C. "A" H-132)

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

Passed to Be Engrossed

Bill "An Act Relating to Prearranged Funerals or Burial Plans" (S.P. 571) (L.D. 1498)

Bill "An Act to Simplify and Clarify the Public Utilities Commission's Authority Over Utility Issuance of Stocks, Bonds, and Notes" (S.P. 574) (L.D. 1499)

Were reported by the Committee on Bills in the Second Reading, read the second time and

Passed to be Engrossed in concurrence.

As Amended

Bill "An Act to Increase the Number of Superior Court Justices and District Court Judges" (S.P. 197) (L.D. 523) (C. "A" S-81)

Bill "An Act to Establish a Vehicle Rental Agency in the Department of Conservation" (H.P. 834) (L.D. 1178) (C. "A" H-129)

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

Passed to Be Enacted Emergency Measure

An Act Relating to Fishing by Net, Trap or Weir in the Waters of Union River Bay and the Lower Union River in Hancock County (S.P. 551) (L.D. 1469)

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

Emergency Measure

An Act to Make Allocations for the Administrative Expenses of the Bureau of Alcoholic Beverages, the Department of Finance and Administration and the State Liquor Commission for the Fiscal Years Ending June 30, 1986, and June 30, 1987 (H.P. 374) (L.D. 515)

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

Emergency Measure

An Act Making Allocations for the Administrative Expenses of the State Lottery Commission for the Fiscal Years Ending June 30, 1986, and June 30, 1987 (H.P. 743) (L.D. 1053) (C. "A" H-122)

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. 117 voted in favor of the same and 3 against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Make Additional Allocations from the Federal Block Grant Fund for the Fiscal Year Ending June 30, 1985 (H.P. 405) (L.D. 558) (C. "A" H-121)

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

Emergency Measure

An Act Permitting Retention of Loss in Excess of Loss Fund by Group Self-Insurers (H.P. 557) (L.D. 829) (C. "A" H-123)

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. 124 voted in favor of the same and none against and accordingly, the Bill was passed to be enacted, signed

by the Speaker and sent to the Senate.

Emergency Measure

An Act to Establish a Pilot Project to Provide for the Education of Students Residing in Long-term Drug Treatment Centers (H.P. 719) (L.D. 1029) (S. "A" S-86)

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. 120 voted in favor of the same and 2 against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Provide that an Unpermitted Leave from a Court Appearance shall be Classified as an Escape (S.P. 303) (L.D. 792) (C. "A" S-77)

An Act to Establish a Funding Mechanism to Make the Joint Environmental Training Program Self-supporting (S.P. 552) (L.D. 1470)

An Act to Amend Certain Aspects of Post-conviction Review (H.P. 361) (L.D. 481) (C. "A" H-118)

An Act to Amend the Law Relating to Regulation of Business Practices Between Motor Vehicle Manufacturers, Distributors and Dealers (S.P. 126) (L.D. 366) (C. "A" S-80)

An Act to Appropriate Grant Funds to the Maine State Commission on the Arts and the Humanities to Support Current Established Programs (S.P. 142) (L.D. 409) (C. "A" S-78)

An Act to Amend the Maine Lemon Law (H.P. 819) (L.D. 1160) (C. "A" H-124)

An Act to Protect Lobster Gear (H.P. 445) (L.D. 627) (Conf. Comm. "A" H-130)

An Act Concerning Striped Bass (H.P. 572) (L.D. 843)

An Act to Clarify Sentences Permissible for a Crime Committed by a Parolee (H.P. 588) (L.D. 858) (C. "A" H-117)

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.

An Act Relating to the Affixing of Indicia of Payment of Real Estate Transfer Tax (H.P. 764) (L.D. 1084)

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

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative McPHERSON: Mr. Speaker, I would like to pose a question through the Chair.

Would somebody please explain to me just what this bill does?

The SPEAKER: The Representative from Eliot, Representative McPherson, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Higgins.

Representative HIGGINS: Mr. Speaker, Men and Women of the House: In response the question posed by the gentlemen, this tries to address two principal problems that the Taxation Committee has found in the Declaration of Value and Transfer of Real Estate in the State of Maine.

One, this bill proposes to help adherence to the current tax laws and eliminate the evasion of income tax by placing the receipt of the transfer tax paid at the point of transfer of real estate on the deed as affixed in the Registry of Deeds.

Second, this is to help eliminate the unreasonable burden of proving sales prices of comparable properties when someone wishes to appeal their property tax assessment.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Stevens.

Representative STEVENS: Mr. Speaker,

Ladies and Gentlemen of the House: Right now, if you buy a piece of property and pay your transfer tax, the assessor of your local community receives notice to the value. He receives a copy of the Declaration of Value which has the amount you pay for your property on it. The assessors have that tool in order to fairly tax the property in their communities.

I don't think we should be doing the work for all the private appraisers out there so they can go look at your deed and make their job easier so they can determine how much they should set the value of that house when you go to the bank or to your real estate agent. They get paid for their job, they can go out and do the comparable market studies just like they are supposed to do and I think it is private, I don't think the whole community has the right to go and look at those deeds and see how much you paid for the property. Tax assessors, yes, but it is sent to them on the Declaration of Value.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative McPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: It seemed to me a few years ago here in the legislature we changed the laws so that the assessor and the assessors only were the ones that had this information and it was done, I know for one reason, so that if I sold a piece of property, my neighbors down the street didn't know what I sold it for or what somebody paid for it. It was the business between myself and the buyer or seller. It seems to be working good from what I can find out locally at home and I just can't see changing the law now. All I can see that it is doing is just as the gentlelady said before me, it is enabling somebody that is appraising property to compare it to other property. If they are good appraisers, why do they need that information?

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: What we are really doing here is saving the consumer some money. As previously mentioned, the information has been secured in such a way that it is difficult for appraisers to get this information but don't you think they do get it because they do. They get the information, it just takes them longer to do it, and who pays for it? That consumer who is required to have an appraisal before he can get a loan.

I think this is a good bill and I hope we go along with it.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Carrier.

Representative CARRIER: Mr. Speaker, Members of the House: I really don't understand what was said about putting the stamps on there, the transfer tax stamps—if this is something new or supposed to be new, we already have the transfer tax stamps on the deed itself.

Along that line, I can go down to Registry of Deeds today and figure out how much you paid for your house depending on the time. Just recently, the tax was raised from \$1.10 to \$2.20 a thousand—is this what we are talking about? Okay, so I can go down or anybody can go down and see how much I paid for my house. I don't care, it is not confidential, it is public record. It has no bearing on the appraisal. I am an appraiser and probably some of you are too. You don't go down there to see what that particular building sold for. I might sell one to my cousin for a third of what it is worth. The towns always like to get a new appraisal especially if a property is sold for \$50,000 more than it is worth because of a particular location—they love that because they want to tax you that much more for it. If you happen to take a piece of property worth \$50,000 and you turn

around and sell it to your buddy for \$20,000 to beat the taxes—is the town going to come down and tax you for the \$20,000 value? Of course, they won't.

Let me inject here, recently the tax transfer law for real estate was doubled by this House and the other body. I didn't vote for it because I think we are gypping the people to death. Now there is another bill all by itself coming in and make you as a buyer pay tax the same way. We work with the housing authority today and in order to make them provide homes for people that can't afford it, they will buy a \$50,000 home today, which is a common thing, and they will have to pay another \$100 or \$200 tax because it is in the tax package. This all relates to the tax of this particular problem that we are talking about. The tax stamps are on the deed when you register that deed. The tax stamps are put on either at the lawyers office or when you sell the property. It is on the deed.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Higgins.

Representative HIGGINS: Mr. Speaker, Men and Women of the House: I would just like to give you a little history of what has happened here. Up until 1975, the transfer tax was \$.55 per five hundred dollars of value and it was affixed to the deed. At that point in time, the state implemented what is called the Declaration of Value, which is a method of informing each tax assessor in each municipality of the value paid for a property so that this can be used in helping determine value throughout a community for property tax assessment purposes. This is no longer placed on the deed the value of \$1.10 per thousand. Last session, this tax was raised to \$2.20 per thousand. What we are proposing is that we affix this payment of the tax to the deeds as we did prior to 1975 and as 48 of the 50 states currently do.

Also, I would like to point out to you that the Assessors' Organization throughout the State of Maine support this legislation for one purpose, it is a Class E crime to divulge at this time the sales price of property so if someone comes in and wants to have an indication of why the assessment on their property is a certain amount, the information on which this assessment was determined, cannot be made available to this property owner. In essence, there is no comparable for a property owner in trying to determine the fairness in justness that the assessor has placed of value on that property for tax purposes, this again, will provide property tax owners with a comparable to see if their assessments are in line.

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

A vote of the House was taken.

74 having voted in the affirmative and 31 in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Requiring Employee Rest Breaks (H.P. 1018) (L.D. 1471)

An Act to Require the Reporting of Factors Contributing to the Causation of Cancer (H.P. 1019) (L.D. 1472)

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.

RESOLVE, Creating the Commission to Study Emergency Medical Services in Maine (H.P. 341) (L.D. 458) (C. "A" H-116)

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

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Reports of Committees

Unanimous Leave to Withdraw

Representative RUHLIN from the Committee on Marine Resources on Bill "An Act Relating to Leases of Aquaculture" (H.P. 986) (L.D. 1416) reporting "Leave to Withdraw"

Representative NELSON from the Committee on Human Resources on Bill "An Act to Amend the Certificate of Need Act" (H.P. 236) (L.D. 277) reporting "Leave to Withdraw"

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

Consent Calendar

First Day

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

(H.P. 497) (L.D. 700) Bill "An Act Pertaining to Interest on Abated Property Taxes" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-147)

There being no objections, the above item was ordered to appear on the Consent Calendar of Monday, May 20, 1985 under the listing of Second Day.

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

Petitions, Bills and Resolves

Requiring Reference

The following Bills and Resolves were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Agriculture

Bill "An Act to Limit Pari-mutuel Wagering to Agricultural Fairs" (Emergency) (H.P. 1068) (Presented by McCOLLISTER of Canton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) Committee on Legal Affairs was suggested.

On motion of Representative Reeves of Pittston, referred to the Committee on Agriculture, Ordered Printed, 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. 681) (L.D. 967) Bill "An Act to Redefine the Southern Boundary to Enlarge the Moose Hunting District" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-150)

(H.P. 268) (L.D. 338) Bill "An Act Authorizing the Department of Inland Fisheries and Wildlife to Continue to Regulate the Harvest of Antlerless Deer" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-151)

(H.P. 703) (L.D. 1013) Bill "An Act Relating to Retirement Options for Legislators" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-154)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 20, 1985 under the listing of Second Day.

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

Reports of Committees

Unanimous Ought Not to Pass

Representative RYDELL from the Committee on Business and Commerce on Bill "An Act Concerning Exemptions to Licensing Requirements for Tree Removal" (H.P. 1023) (L.D. 1475) reporting "Ought Not to Pass"

Representative ROTONDI from the Committee on Fisheries and Wildlife on Bill "An Act Concerning the Operation of All Terrain Vehicles" (H.P. 766) (L.D. 1086) reporting "Ought Not to Pass".

Representative WALKER from the Committee on Fisheries and Wildlife on Bill "An Act to Amend Certain Fish and Game Laws" (H.P. 756) (L.D. 1077) reporting "Ought Not to Pass".

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

Unanimous Leave to Withdraw

Representative RYDELL from the Committee on Business and Commerce on Bill "An Act to Assure the Public Freedom of Choice of Practitioner in Obtaining Dental Services" (H.P. 532) (L.D. 752) reporting "Leave to Withdraw".

Representative MURRAY from the Committee on Business and Commerce on Bill "An Act to Allow Licensed Dentists to Participate in any Prepaid Dental Group" (H.P. 555) (L.D. 827) reporting "Leave to Withdraw".

Representative MURRAY from the Committee on Business and Commerce on RESOLVE, Creating a Commission to Study Reduced Benefit Low-cost Health Insurance Coverage (H.P. 867) (L.D. 1224) reporting "Leave to Withdraw".

Representative MURRAY from the Committee on Business and Commerce on Bill "An Act to Contain Health Care Costs by Providing for a Study of Mandated Benefits" (H.P. 421) (L.D. 601) reporting "Leave to Withdraw".

Representative NADEAU from the Committee on State Government on Bill "An Act to Establish the Director of the Maine State Housing Authority as a Nonvoting Commissioner of the State Authority" (H.P. 198) (L.D. 232) reporting "Leave to Withdraw".

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

Orders of the Day

The following matters, in the consideration of which the House was engaged at the time of adjournment Monday, May 13, 1985, 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 matter of Unfinished Business:

An Act to Prevent Double Benefits for the Same Period of Service, to Provide Membership as of the Effective Date of First Contributions and to Provide that Benefits be Paid only to Members, their Dependents or Beneficiaries (H.P. 999) (L.D. 1441)

TABLED—May 13, 1985 (Till Later Today) by Representative HICKEY of Augusta.

PENDING—Passage to be Enacted.

On motion of Representative Hickey of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 1441 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-152) and moved its adoption.

House Amendment "B" was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Hickey.

Representative HICKEY: Mr. Speaker, Members of the House: This amendment was added to clarify the meaning of dependents which was unclear to the engrossment committee.

Whereupon, House Amendment "B" (H-152) was adopted, the Bill passed to be engrossed as amended by House Amendment "B" and sent up for concurrence.

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

An Act to Clarify the Definition of Spouse (H.P. 426) (L.D. 606) (C. "A" H-102)

TABLED—May 13, 1985 (Till Later Today) by Representative HICKEY of Augusta.

PENDING—Passage to be Enacted.

On motion of Representative Hickey of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 606 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-102) was adopted.

The same Representative offered House Amendment "B" (H-153) to Committee Amendment "A" and moved its adoption.

THE SPEAKER: The Chair recognizes the Representative from Augusta, Representative Hickey.

Representative HICKEY: Mr. Speaker, Members of the House: This amendment makes sure that the change in the definition of spouse does not interfere with divorce orders agreed upon prior to the effective date of the bill.

Whereupon, House Amendment "B" to Committee Amendment "A" was adopted.

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

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

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

HOUSE DIVIDED REPORT—Majority (7) "Ought Not to Pass"—Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-106)—Committee on State Government on Bill "An Act to Establish the Department of Forestry" (H.P. 338) (L.D. 441)

TABLED—May 13, 1985 (Till Later Today) by Representative DEXTER of Kingfield.

PENDING—Motion of Representative GWADOSKY of Fairfield to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Dexter of Kingfield, retabled pending the motion of Representative Gwadsky of Fairfield, that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Monday, May 20, 1985.

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

RESOLVE, to Provide for an Agreement Between the State and the City of Augusta to Establish a Greenbelt Area on State-owned Land on the East Bank of the Kennebec River in Augusta (H.P. 1017) (L.D. 1468)

TABLED—May 10, 1985 by Representative MICHAUD of Medway.

PENDING—Passage to be Engrossed.

On motion of Representative Michaud of Medway, retabled pending passage to be engrossed.

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

COMMITTEE OF CONFERENCE REPORT—on RESOLVE, to Name the Wiscasset Bridge the Donald E. Davey Bridge (H.P. 373) (L.D. 492)

TABLED—May 13, 1985 by Representative MELENDY of Rockland

PENDING—Acceptance of Committee Report. (Roll Call Requested)

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: Pursuant to Joint Rule 17, I move the House reject the Report of the Committee of Conference and further move to insist and request a new Committee of Conference.

I apologize to you for the time this issue has consumed. It was never my intention to take away the legislative authority to name bridges.

My original legislation simply named a bridge. The other body, in its infinite wisdom, objects to the legislature being involved in this process. They have not considered the merits of this Resolve, rather they have only considered that they did not want to make this decision. That is why the Committee of Conference was written as it was. It became clear to me last week that this body does not want to change that process by which bridges are named; therefore, I ask you to send this Resolve, back to the Committee of Conference where it can be voted up or down, as is.

Whereupon, on motion of Representative Mayo of Thomaston, the House voted to reject the first Committee of Conference Report.

On further motion of the same Representative, the House voted to request a second Committee of Conference Report.

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

Bill "An Act Relating to Structures Located in Proposed Ways (S.P. 265) (L.D. 708) (C "A" S-74)

TABLED - May 13, 1985 by Representative KANE of South Portland.

PENDING - Passage to be Engrossed.

On motion of Representative Kane of South Portland, retabled pending passage to be engrossed and specially assigned for Monday, May 21, 1985.

SENATE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" - Committee on Transportation on Bill "An Act to Require the Use of Seat Belts in all Motor Vehicles" (S.P. 383) (L.D. 1050)

- In Senate, Minority "Ought to Pass" Report read and accepted and the Bill Passed to be Engrossed as amended by Senate Amendment "B" (S-75)

TABLED - May 13, 1985 by Representative THERIAULT of Fort Kent.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Diamond of Bangor, retabled pending the motion of Representative Theriault of Fort Kent that the house accept the Majority "Ought Not to Pass" Report and specially assigned for Monday, May 20, 1985.

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

SENATE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (S-83) - Minority (1) "Ought Not to Pass" - Committee on Judiciary on Bill "An Act to Amend the Statutes on Sex Offenses" (S.P. 283) (L.D. 772)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-83)

TABLED - May 13, 1985 by Representative PARADIS of Augusta.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Westbrook Representative Carrier.

Representative CARRIER: Mr. Speaker, Members of the House: I can't believe this.

I really didn't want to talk about this bill this afternoon. This bill is a juicy bill and I think in case you were misled by the title -- the title really involves marital rape, that is the way it should be worded so people know what they are talking about.

I am the one who signed the "Ought Not to Pass" Report and I would like to say a few words about it. I signed the "Ought Not to Pass Report," not because I am an approver of a rape or physical abuse or any part of that area. The reason that I am against this bill is because I

think it is a bad bill.

We have to get into the marital part of it and I will use restraint in my wording. This is more appropriate for a barroom discussion.

I feel that marital rape should not be in here. It was never in the law before. It looks very innocent to scratch something out of the present laws and make marital rape a crime. I feel in the course of people living together and having arguments that this is not the procedure to be used. If someone does bring charges against their husband or wife and they use the charge of marital rape, I don't feel that this is right. Under the present law, you have plenty of room to use the rape situation as an affirmative defense.

I wonder what this will do for the man. He is going to be the defendant in all cases and I wonder how many cases we have at the present. I wonder how many cases have been involved—is the woman going to rape a man? There are a lot of questions here that cannot be asked on the floor of this House. For the learned people who went through law school and others who have read the law, you really can't explain what is involved in this bill.

If you are talking about people who are separated, that is a different thing. I do believe that a bill of this magnitude -- if married people living together have an argument, this will not help. I think things could be resolved without this hammer on top of your head.

I think if this bill were to pass, it should be amended to say "separated". Things are different today. People are getting divorced today at a much faster rate. This will not help with reconciliation. This situation has to be proven but this will help those that want to break their marital vows. I don't agree with the bill.

I ask you, who has been raped and who has complained as far as marital stuff is concerned?

The code was changed a while back, I wasn't part of it, where the fornication statute was removed -- they opened up everything for everybody to do and yet, you turn around and make them criminals. I don't believe that this is a good bill and I move for the indefinite postponement of this bill and all accompanying papers.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Kane.

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: My friend and colleague from Westbrook, Representative Carrier, would suggest that this is an innocent bill. This bill has nothing to do with innocence at all. What it has to do with is guilt. To my mind, there is no crime at all comparable to rape. There is no criminal act, which is such a direct and destructive attack on a person's physical and psychological integrity, on a person's sense of her own self-worth and, if you will, on a person's soul.

The experts say, and I believe it, that the motive behind a rape is not so much the gratification of a sexual urge as it is for the degradation and the humiliation and the subjugation of the victim of the rape.

Under the current law in this state, there exists a group of women who can be repeatedly subjected to this sort of attack in their own homes and whom, because at one time they trusted the attacker enough to marry him, will not be protected by the law. It is a complete part of the prosecution. I think it is just a historical accident that this bill hasn't come up in the past. I think people just didn't realize that this was still the way our law is, but it is, and I urge you to oppose the current motion and bring us into the 20th Century.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Dillenback.

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to make a great speech on this bill. It just seems to me that the ultimate recourse to this

situation is divorce. If the wife is raped, she certainly could take her husband to court and then there will be a divorce anyway. I think the ultimate recourse to this is divorce.

The SPEAKER: The Chair recognizes the Representative from Canton, Representative McCollister.

Representative MCCOLLISTER: Mr. Speaker, I would like to pose a question through the Chair.

Just exactly what do you describe as marital rape?

The SPEAKER: The Representative from Canton, Representative McCollister, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Baker.

Representative BAKER: Mr. Speaker, Men and Women of the House: I will not attempt to answer this particular question; however, I will answer it in another way.

We have laws right now that if you assault or harm your wife, that is on the books. Rape is just as much an assault on violence as beating someone with your fists. I don't see what the difference is. If we give women the recourse in courts to protect themselves from assault and battery on their husbands, there is no reason why we can't give women the same recourse if they are raped. It is pure and simple.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Michael.

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I think it is simplistic to think that this is pure and simple. I am concerned about where the mentality of this bill comes from. I certainly sympathize with the notion and the concept that we are opposed to violence in society. I think we are all unanimous in that support but I question the value of this bill in reducing violence in society, especially in reducing passionate violence. I think the gentleman from Cumberland was right on when he suggested that the remedy to this situation would be divorce or I would say leaving the relationship. There is no excuse for the condition that a relationship must be in for it to be in the posture to be dealing with marital rape to continue in that condition.

I have had no answer to my question of: why do these women stay in the relationship? If the condition of the relationship is such that it doesn't work and they are living with men who are violent or threaten them or whatever the situation is, I have received no suitable answer to that question and I don't think there is a suitable answer. So, the danger in this bill, I think, is that it sets it up to have an ongoing condition in the relationship where the couple is not getting along and if you take something and let it sit long enough, eventually, keeping that probability alive long enough, will eventually produce a result so if you stay in a relationship that doesn't work and you argue and you fight all the time, eventually there will be trouble. Common sense, simplistic perhaps.

I say what is lacking from this bill, and this is my concern, and I say what is lacking, by the way, from keeping the relationship working as well, is any sense of mutual responsibility. I have heard no notion from the supporters of this bill of the women being involved in marital rape of having anything to do at all with it, being at all responsible in the matter, and I say that that is essentially not so and it is that absence of that notion of responsibility that concerns me so much. I say you are just setting it up to give the woman a hammer in a relationship so that when it doesn't work for a long time and finally something happens, because something finally will happen if you stick around and keep that probability alive long enough, that the guy gets the short end

of it. I don't think it works and I think the gentleman from Westbrook was absolutely right when he said that this would contribute to the -- I will say it in my words, "to the decay of the family, to the decay of marriages because it gives another weapon into the arsenal that is already there so the couples could fight rather than get along."

I would like to put the question out -- "why married?" What does that mean? That declaration of marriage? What does that mean to a person, what does that mean to society? It must seem something different than the casual relationships we have with one another on the street. I have no sympathy for rape in general but I do say that there is a different context that exists in the context of a marriage.

Before this House passes this into law, I think you should take a very serious look at what you are doing, what kind of a declaration you are making. We are, for one thing, declaring that that special context of marriage, that special declaration doesn't mean necessarily partnership and cooperation. I think it means a little bit more than that so I caution the House and ask us to look deeply into this issue before we move forward. No one wants violence and, by the way, as the gentleman from South Portland said, there are already laws on the books which prohibit battering your wife so this is not an anti-violence bill; this is strictly a sexual bill. This is very, very complicated, it is not simple, we should not rush into this just because it is chic and we button into the cliché of "let's protect these women from the bad guys." It is not as simple as that.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Hayden.

Representative HAYDEN: Mr. Speaker, Men and Women of the House: Very briefly, I think it might be of use to every person in this House, whether they are for or against this bill, to hear from a member of the committee what the elements are of this offense, rape. We are not talking about marriage here; we are not talking about encounter groups; we are not talking about people getting together, we are talking about a person, be it a married person or an unmarried person, who is subjected to a crime that, on its very face, is the essence of being serious, the essence of being threatening and I think rather than trying to say from memory what the terms of that offense are, perhaps someone from the committee could read the very stark things that have to be proven for there to be rape. I think once those are heard, it is very hard not to go along with the Majority Report.

I would request, Mr. Speaker, that someone from the committee read the elements of the offense.

The SPEAKER: The Representative from Durham, Representative Hayden, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: 17A, Section 252, defines rape as we are using it here as follows: "a person is guilty of rape if he engages in sexual intercourse with any person (at this point, not a spouse), and the person submits as a result of compulsion as to find in Section 251, Subsection 1, Paragraph E. Compulsion means physical force, a threat of physical force or a combination thereof, which makes a person unable to physically repel the actor; or which produces in that person a reasonable fear that death, serious bodily injury or kidnapping might be eminently inflicted upon that person or upon another human being."

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: In addi-

tion to this being a legal issue, it is also a fairness issue. If you had attended the hearing, you would have heard the victims of rape testify and you would have been horrified that women could be so mistreated.

It is a 12 to 1 committee report and I hope you will support the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Carrier.

Representative CARRIER: Mr. Speaker, Members of the House: The elements that were just read are right because they came out of the statutes but the fact is that the main element of rape is not in there. It is but it is not—the word "consent"—in order to get raped, you have to have a lack of consent. Okay, so how could we not say that somebody that does not get along with his spouse, a real bad situation, and chooses to stay there, whatever the conditions are, how could you say implied consent is not there? They stay there and they know that they are going to get something done to them and how could you not put implied consent to it?

I suggest to you, ladies and gentlemen, that for your own sake and your own personal protection, that this is a bad bill and we should not pass it.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Cooper.

Representative COOPER: Mr. Speaker, Ladies and Gentlemen of the House: I guess under the criteria that we just heard, an incest victim would fall into that same category. They seem to stay there, even though they are a victim. It appears to me from what I have heard that if a lady gets raped by her husband, even if it is just once, the recourse should be divorce, not a criminal action against the husband, that he should be unpunished, that there simply should be a divorce.

I think there are great many things involved when you are in a family situation. In fact, over a period of time, may prohibit a woman from getting out of the marriage situation. But if, in fact, it only happens once, then it seems to me she should have the right to go to court and get action taken. Divorce is fine but it fails in two ways: first, people who commit criminal acts should be punished and second, we need more of a deterrent against this anti-social kind of behavior. I think there are safety valves in place. A woman simply isn't going to be able to cry rape and get action taken. There will be a police investigation, prosecutors discretion is going to be involved, jury deliberation will be involved and if in fact there is no rape or is done by consent, then I don't think anybody is going to be unduly harmed. It is going to be a very difficult situation for any woman to go through that kind of a trial. They are not going to go through it unless, in fact, there was something behind the case.

Representative Kane of South Portland requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Carrier of Westbrook that the Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 71

YEAS:—Aliberti, Bonney, Bragg, Callahan, Carrier, Carter, Connors, Daggett, Dexter, Dillenback, Harper, Jackson, Lebowitz, Lord, McCollister, McHenry, Michael, Murphy, E.M.;

Perry, Pines, Pouliot, Racine, Ridley, Smith, C.B.; Sproul, Stevenson, Wentworth, Weymouth, Willey

NAYS:—Allen, Armstrong, Baker, A.L.; Baker, H.R.; Begley, Bell, Bost, Boutillier, Brannigan, Brodeur, Brown, A.K.; Brown, D.N.; Cahill, Carroll, Cashman, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Davis, Descoteaux, Diamond, Drinkwater, Duffy, Erwin, Foss, Foster, Greenlaw, Gwadosky, Hale, Handy, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jacques, Joseph, Kane, Lacroix, Lander, Law, Lawrence, Lisnik, MacBride, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McGowan, McPherson, Melendy, Mills, Mitchell, Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Priest, Reeves, Rice, Richard, Rioux, Roberts, Rolde, Rotondi, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, C.W.; Soucy, Stetson, Stevens, A.G.; Stevens, P., Strout, Tammaro, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, Whitcomb, The Speaker

ABSENT:—Beaulieu, Bott, Chonko, Dellert, Farnum, Higgins, H.C.; Jalbert, Kimball, McSweeney, Michaud, Moholland, Randall, Ruhlin, Swazey, Webster, Zirkilton

29 having voted in the affirmative and 106 in the negative with 16 absent, the motion did not prevail.

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

Committee Amendment "A" (S-33) was read by the Clerk and adopted and the Bill assigned for Second Reading Monday, May 20, 1985.

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

HOUSE DIVIDED REPORT—Majority (10) "Ought Not to Pass"—Minority (3) "Ought to Pass"—Committee on Human Resources on Bill "An Act to Provide Family Counseling and Legal Assistance in Cases of Alleged Child Abuse or Neglect" (H.P. 483) (L.D. 686)

TABLED—May 13, 1985 by Representative NELSON of Portland.

PENDING—Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Diamond of Bangor, retabled pending the motion of Representative Nelson of Portland that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Monday, May 20, 1985.

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

Bill "An Act to Amend the Law Establishing a Commercial Tag for Atlantic Salmon to Exempt Indians and Persons under 16 Years of Age" (Emergency) (H.P. 1048)

(Committee on Fisheries and Wildlife suggested.)

TABLED - May 13, 1985 by Representative DIAMOND of Bangor.

PENDING - Motion of same Representative to Indefinitely Postpone the Bill.

Whereupon, the House voted to indefinitely postpone this bill and all accompanying papers.

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

Reports of Committees

Unanimous Ought Not to Pass

Representative MACOMBER from the Committee on Transportation on Bill "An Act to Clarify the Maine Highway Transportation Reform Act" (H.P. 620) (L.D. 890) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative MASTERMAN from the Committee on Local and County Government on Bill "An Act Concerning Salaries for Cooperative Extension Service Staff" (H.P. 917) (L.D. 1323) reporting "Leave to Withdraw"

Representative MACOMBER from the Committee on Transportation on Bill "An Act Relating to Reimbursement to No Spray Towns" (H.P. 848) (L.D. 1197) reporting "Leave to Withdraw"

Representative MACOMBER from the Committee on Transportation on Bill "An Act to Permit Travel of Heavy Equipment on Posted Roads" (H.P. 888) (L.D. 1245) reporting "Leave to Withdraw"

Representative SOUCY from the Committee on Transportation on Bill "An Act Relating to the Reporting of Highway Statistics" (H.P. 903) (L.D. 1298) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 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. 685) (L.D. 971) Bill "An Act to Establish a Budget Committee to Provide Local Input in the Waldo County Budget-making Process" Committee on Local and County Government reporting "Ought to Pass"

(H.P.300) (L.D. 389) Bill "An Act to Establish a Kennebec County Budget Committee" Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-155) (Representative MURPHY of Berwick—of the House—abstaining)

(H.P. 883) (L.D. 1240) Bill "An Act to Clarify the Agricultural Exemption in the Workers' Compensation Laws" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-156)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 20, 1985 under the listing of Second Day.

(Off Record Remarks)

On motion of Representative Smith of Mars Hill, adjourned until nine o'clock, Monday, May 20, 1985, in memory of Louis Finnemore of Bridgewater, a former Legislator.