

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD  
OF THE  
*One Hundred and Twelfth*  
*Legislature*  
OF THE  
STATE OF MAINE

VOLUME I  
SECOND REGULAR SESSION  
January 8 - April 2, 1986

The House was called to order by the Speaker.  
Prayer by Reverend Edgar Jones, Winthrop  
Congregational Church.  
The Journal of Tuesday, March 25, 1986, was read  
and approved.  
Quorum call was held.

COMMUNICATIONS

The following Communication:

STATE OF MAINE  
DEPARTMENT OF CONSERVATION  
STATE HOUSE STATION 22  
AUGUSTA, MAINE 04333

March 25, 1986

Speaker John L. Martin  
State House Station #2  
Augusta, ME 04333

Dear Speaker Martin:

We are pleased to submit herewith the first  
annual report of the Pesticides in Ground Water  
Study. Although the first year was necessarily  
limited in scale, the results are encouraging.  
Pesticides were detected at trace levels in only 13  
of 41 wells.

Nitrate concentrations were above drinking water  
standards in 16 of the wells sampled. This is not  
uncommon in agricultural areas. We plan to expand  
and refine our study for the coming summer,  
concentrating in Northern Maine, where we will be  
mapping bedrock and surficial aquifers. Should you  
have any questions, please give me a call.

Sincerely,

S/Walter A. Anderson,  
Director  
State Geologist

Was read and with accompanying report ordered  
placed on file.

The following Communication:

STATE OF MAINE  
DEPARTMENT OF HUMAN SERVICES  
AUGUSTA, MAINE 04333

March 25, 1986

TO: Honorable John L. Martin,  
Speaker of the House

FROM: Michael R. Petit,  
Commissioner

SUBJECT: Cost Effectiveness - Computerized  
Matching of Bank Records of Welfare  
Recipients

The Department of Human Services matches its  
computerized files of recipients of financial and  
medical assistance with those of banks.

The attached report on the cost effectiveness of this  
technique was mandated by the 111th Legislature. As  
you can see from the report, the Department has  
concluded that this matching is a useful and cost  
effective tool.

Was read and with accompanying report ordered  
placed on file.

ORDERS

On motion of Representative McSWEENEY of Old  
Orchard Beach, the following Order:

ORDERED, that Representative Nathaniel J.  
Crowley, Sr., of Stockton Springs be excused March 25  
for the duration of his illness.

Was read and passed.

CONSENT CALENDAR

SECOND DAY

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

(S.P. 787) (L.D. 1980) Bill "An Act to Make  
Supplemental Allocations from the Ground Water Oil  
Clean-up Fund to Support Activities and Staff of the  
Board of Underground Oil Storage Tank Installers"  
(Emergency) (C. "A" S-429)

(S.P. 668) (L.D. 1722) Bill "An Act to Improve  
Enforcement of the Potato Branding Law" (C. "A"  
S-431)

(S.P. 795) (L.D. 2002) Bill "An Act Creating the  
Cornish Water District" (Emergency) (C. "A" S-430)

(H.P. 1542) (L.D. 2179) Bill "An Act to Adjust  
the Nonresident Commercial Fishing License Fee" (C.  
"A" H-601)

(H.P. 1428) (L.D. 2018) Bill "An Act to Revise  
the Certificate of Need Process" (C. "A" H-603)

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

ORDERS OF THE DAY

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

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" - Committee on Legal Affairs on RESOLVE, to Permit Edgar Warren to Sue the State for Compensation for Injuries Incurred While He was a Ward of the State (H.P. 1377) (L.D. 1940)

TABLED - March 25, 1986 by Representative REEVES of Pittston.

PENDING - Motion of same Representative to accept the Minority "Ought to Pass" Report.

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

Representative REEVES: Mr. Speaker, Men and Women of the House: Edgar Warren was a ward of the state and was an inmate at the Maine State School for Boys, when he was paroled at the age of 10 years old. In September of 1941, he was sent to a farm in South Paris. This was not an official parole and the Department of Health and Welfare was not consulted but simply sent at the discretion of the Commissioner for the State School for Boys to this farm in South Paris.

Two months later, his hand was injured by a circular saw that he was operating and had to be amputated. There is considerable evidence from records of 1941 that Edgar Warren was improperly placed on the farm. He should have become a case of the Department of Health and Welfare but the corrections official in charge took the matter into his own hands and sent the boy to the farm.

Mr. Warren told us when he testified that he requested schooling but he was assigned to work in the woods. There is documentation in the records that there were 13 separate cottage reports that Edgar Warren was not mechanically inclined and yet, he was put to work operating that saw.

After his hand was amputated, Warren was never told about any rights of compensation or any rehabilitation or therapy program that he might have been eligible for.

He is now 55 years old and has lived his life and tried to earn a living without a hand and without any training or therapy. He has never received any money from the state, not medicaid or welfare, or any assistance. He has never had the resources to get himself an artificial hand.

When this bill first came to the Legal Affairs Committee, we heard testimony from Mr. Warren and then requested further information from the Department of Corrections. Mr. Warren had to sign a release and then records from 1941 were researched by the department. The commissioner and his assistant who researched this case were both quite shocked when the records revealed such unmistakable mishandling of this young boy on the part of state officials who were responsible for his care. Officials of the department stated unequivocally that they believed the department's were at fault and this was a very unusual case.

We, in the legislature, are now being asked to permit Edgar Warren to sue the state. We are not being asked to judge the case or decide what the settlement should be. We, who signed this report

from the committee, believe that the case has merit and that Edgar Warren should be permitted to pursue a settlement; therefore, I urge you to support the "Ought to Pass" Report.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I think I should explain why I voted against this. I have great feelings for the problems that this gentleman has had, but it was 47 years ago when this happened. He is 64 years old today. The gentleman who he worked for is deceased and probably is responsible for his working on this saw -- we, in the committee, attempted to work something out with the state. Probably the bill should say, he should be given a grant because I don't think he has any chance in the world of getting any money from the State of Maine or winning his suit.

What is going to happen is the state is going to be exposed to a legal suit that they have to participate in and I am afraid the gentleman isn't going to get anything out of it. Just stop and think, he is 64 years old, it was 47 years ago and the man really should not sue the state but the people he worked for. That is the reason I voted against it. I feel badly for the gentleman but I don't think he has any opportunity to get anything.

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the Representative from Cumberland, Mr. Dillenback, if I may.

My question is, if this bill were amended to provide for some form of grant based on the evidence presented, would you be willing to support it?

The SPEAKER: Representative Baker of Portland has posed a question through the Chair to Representative Dillenback of Cumberland, who may respond if he so desires.

The Chair recognizes that Representative.

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I certainly would hope the bill would come back to the committee so that the whole committee could make a decision on this bill and I would make my decision at that time.

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

Representative BAKER: Mr. Speaker, Members of the House: I came in this morning prepared to argue on Mr. Warren's behalf and I still intend to do that.

One of the reasons that the bill had been tabled was so that I could get an opinion on this matter from somebody in the Attorney General's Office. I will read that opinion shortly after I go over a couple of points which I feel ought to be made in this particular case.

When I first took this bill on behalf of Mr. Warren, my initial reaction was well, everybody would like to sue the state at one time and I took it because I felt he had some merit. But I confess to you that I didn't quite believe as strongly about Mr. Warren until, at my request, the Department of Corrections looked into the records and found out what precisely happened to Mr. Warren in this particular circumstance.

It must be remembered that when we talk about allowing an individual to sue the state, we base that suit on the uniqueness of the case. I stress the

word unique.

When Mr. Warren had his accident, he was a minor and a ward of the state. What that means is that the state took on the responsibilities of a parent. That is one of the factors that makes this unique. Two, and I am going to read part of that interdepartmental memorandum that was sent over to myself and the members of the committee. It says, "Other correspondence in the Warren file reveals that Edgar Warren may have been illegally placed in the McKean residence, (that is where the accident took place in South Paris) and the then superintendent of the boys school did not go through proper channels to effect a parole for Edgar Warren". So, here we have a situation where the department did not go through proper channels and placed him in a situation where, according to cottage reports, on 13 separate occasions, Warren was classified as not being mechanically inclined. It is pretty obvious here that he was not mechanically inclined and the department had no business releasing him to a farm where he was asked to operate a saw which resulted in the loss of his left hand.

Instead of getting some form of compensation, Mr. Warren got nothing. His hospital bill is paid, that is true, but now he has gone through his life finding it difficult to obtain jobs because insurance riders are demanded of employers before they hire him.

What compounds the situation in Mr. Warren's case is that he cannot even get Social Security Disability. Why? Because he does work at a very low paying job, it is true, but he does work. With one hand, he is able to carry a paint brush and carry a pail, dip that paint brush in the pail and paint the interior of apartment buildings. For that attempt at working, he is penalized again by not getting Social Security Disability.

You may argue that at the time Mr. Warren became an adult, he should have known the law and pressed for some suit. We say ignorance of the law is no excuse. If Mr. Warren had had parents, it would have been their responsibility to press for compensation for this loss of a hand. Mr. Warren's parents were the state. The state did nothing -- a very unique situation. They improperly paroled him and they did not act responsibly.

In addition to that, I have received a letter from Don Allen, Commissioner of the Department of Corrections, I will just quote part of it. He says, "Obviously, the circumstances surrounding the unfortunate events in Mr. Warren's life, which occurred 45 years ago, are probably relatively unique. It appears, therefore, that legislative action may be appropriate." Relatively unique.

Mr. Warren had made several attempts to address this issue over his life time. As an adult, he was told that it was too late -- can't do anything about it. He approached Judge Pinansky on one occasion and Udel Bramson, a former Representative of this body. He finally approached me and I decided to put the bill in.

I don't think I have ever felt so strongly about an individual's claim in the entire eight years I have been before this body. I was willing, of course, to come to any form of compromise that could settle this particular issue. It had been suggested that, if the legislature found it appropriate regarding the circumstances, that perhaps we should award him some settlement. That, in the opinion of one person who has done the research, it would have

been compensation that is long overdue. I had asked whether or not, if we passed this law, the department could then enter into negotiations and perhaps they wouldn't have to go to court.

In a paper that was just handed to me, a memorandum from the Department of the Attorney General -- he mentions that he understands the present posture of the legislation as reported out by the committee. He would point out that there is no assurance that this office would determine that Mr. Warren's claim has merit and should be settled out of court. In light of the above, my suggestion to you is that you press for a private bill authorizing the payment to Mr. Warren out of whatever sum of money you deem appropriate. Such a resolution to Mr. Warren's situation would avoid the uncertainties and expense of litigation. That is the memo I was waiting for for the last two days from the Department of the Attorney General. That places me in a very ticklish position because I want to keep this alive. I think it has merit. I believe everything that I have done in terms of researching it from the department shows that there is merit to this particular case.

If I could amend the bill, perhaps to take care of the concerns that some people have, I would be willing to do that, but it cannot be done unless it passes first reader. Even at that point, we would have to question as to how it could be amended, considering the title. I would appreciate it if we could at least get this bill by first reader. If we do that, it would allow me then to go back to the person that wrote me this memo and to consult with leadership to see if I could place the bill in an amended position. That is basically what I am asking for today -- to let this pass on first reader.

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

64 having voted in the affirmative and 45 in the negative, the Minority "Ought to Pass" Report was accepted, the Resolve read once and assigned for second reading tomorrow.

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

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" in New Draft under New Title Bill "An Act to Improve Lobster Research and Management" (H.P. 1597) (L.D. 2248) - Minority (2) "Ought Not to Pass" - Committee on Marine Resources on Bill "An Act to Raise the Minimum Legal Size of Lobsters" (H.P. 513) (L.D. 718)

TABLED - March 25, 1986 by Representative DIAMOND of Bangor.

PENDING - Motion of Representative CROWLEY of Stockton Springs to accept the Majority "Ought to Pass" in New Draft under New Title Report.

On motion of Representative Hayden of Brunswick, retabled pending the motion of Representative Crowley of Stockton Springs that the House accept the Majority "Ought to Pass" Report and tomorrow assigned.

BILL HELD

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Rhulin.

Representative RHULIN: Mr. Speaker, is the House in possession of L.D. 2209 (H.P. 1564), An Act to Require Employers to Notify Employees of the Termination of Group Insurance?

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

On motion of Representative Rhulin of Brewer, under suspension of the rules, the House reconsidered its action whereby L.D. 2209 was passed to be enacted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 2209 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-604) and moved its adoption.

House Amendment "A" (H-604) was read by the Clerk.

On motion of Representative Beaulieu of Portland, tabled pending adoption of House Amendment "A" and later today assigned.

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

PAPERS FROM THE SENATE

The following Communication:

SENATE OF MAINE  
OFFICE OF THE SECRETARY  
AUGUSTA, MAINE 04333

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 Education, the Governor's nomination of Teresa A. Moore of Westbrook for appointment to the University of Maine, Board of Trustees.

Teresa A. Moore is replacing James S. Bowers.

Sincerely,

S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An Act to Amend the Requirements for Personal Service in

an Action for a Guardianship or Conservatorship" (Emergency) (S.P. 759) (L.D. 1923) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 897) (L.D. 2257)

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

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

Ought to Pass in New Draft

Report of the Committee on Utilities on Bill "An Act to Assist Consumers in Obtaining Redress for Violation of their Rights by Regulated Utilities" (S.P. 751) (L.D. 1915) reporting "Ought to Pass" in New Draft (S.P. 899) (L.D. 2259)

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

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

(Off Record Remarks)

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

PAPER FROM THE SENATE

The following Joint Resolution: (S.P. 900)

JOINT RESOLUTION IN RECOGNITION OF MAINE'S  
TRAVEL AND TOURISM INDUSTRY

WHEREAS, "the benefits of travel are many; the freshness it brings to the heart; the delight of beholding new cities; the meeting of unknown friends;" and

WHEREAS, with its geographical breath and diversity, vacationland proudly offers those and countless other benefits to all who choose the great escape and pathway from the stresses of our mundane worlds; and

WHEREAS, Maine's travel and tourism industry is the State's 2nd largest industry and makes substantial contributions to the economic welfare of the State, providing nearly 12% of the Maine gross state product in 1985; and

WHEREAS, the diversified nature of the tourism industry in Maine enhances the state economy and the well-being of the people of Maine and all who visit the State; and

WHEREAS, since the travel and tourism industry attracts more people to Maine, which in turn will

yield greater revenue to the General Fund through increased tax revenues and employment for the people of Maine, promoting tourism is in fact an investment in Maine's future; now, therefore be it

RESOLVED: That we, the Members of the 112th Legislature of the State of Maine, now assembled in Second Regular Session, take this opportunity to acknowledge the many outstanding accomplishments of those in the State's travel and tourism industry and express to them on this particular day a full measure of our gratitude and appreciation for their outstanding contribution to the well-being of this State; and be it further

RESOLVED: That copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Vacation Travel Commission in honor of this special occasion.

Came from the Senate, read and adopted.

Was read.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Ingraham.

Representative INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: By this Joint Resolution, we recognize Tourism Day in the legislature. In so doing, we recognize the contribution made to the Maine economy by the industry of tourism.

In 1984, Maine's gross state product, the sum total of all goods and services sold in one year, amounted to slightly more than \$13 billion. Direct and indirect sales to tourists during that year amounted to \$1.5 billion. Tourism represents nearly 12 percent of all direct and indirect goods and services sold in the state or over \$1,000 for every man, woman and child in Maine.

Tax revenues for the state and the cities and towns of Maine has steadily increased over the years. The contributions to the state in taxable revenues from tourism is over \$97 million. The contribution to local tax coffers stands at \$44 million. Combined tourism tax contributions in the state and local governments of Maine stands in excess of \$140 million. This figure does not include \$25 million in local property taxes collected on seasonal homes.

Today, more than 57,000 Maine people are employed directly or indirectly because of a vibrant tourism industry. Tourism's economic contribution aids us in funding the wide variety of social service programs that any compassionate government wishes to keep in place for the benefit of its citizens. Tourism's economic contribution helps cities and towns maintain adequate fire and police protection, snow plowing, schools, and a host of other community services. This tax contribution helps us maintain these services while avoiding the undesirable alternatives of lay-offs, tax increases, or a reduction in services to the people. Today we recognize the economic contribution of the tourism industry and its role in creating our special way of life in Maine.

I would like to add a personal touch to this. I have learned, I am a born tourist. I have toured to several European countries and Central America. Thanks to the Maine Development Foundation tours, and I went on all four, I will tell you there is nowhere in Maine that isn't worth seeing, north, south, east

or west, any time, any where. We are so diversified, it is beyond description.

If you want a vacation, consider touring your own state, it is fascinating.

A case in point about the 'any time' — on the last trip, we were in Camden, that was March 7th and it was never more beautiful. I have been to Camden often but I had never seen it like that. There was a heavy wet packing snow storm that had laden the trees and bushes and the charming, more than typical New England homes, it was really breathtaking. It was like driving through Christmas cards.

Maine people can be Maine tourists too. We all should be. Tour Maine.

As for those that come in from outside, they are fortunate to be able to see what the good life can be like.

Subsequently, the Resolution was adopted in concurrence.

All matters have been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

On motion of Representative Racine of Biddeford, Recessed until four-thirty in the afternoon.

(After Recess)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

#### PAPER FROM THE SENATE

##### Ought to Pass

Report of the Committee on Transportation reporting "Ought to Pass" on Bill "An Act to Increase the Amount of Insurance for Vehicles Used in Transporting Students" (S.P. 830) (L.D. 2090).

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Senate Amendment "A" (S-433).

Report was read and accepted, the bill read once. Senate Amendment "A" (S-433) was read by the Clerk and adopted and the Bill assigned for second reading, Thursday, March 27.

#### PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills 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 Establish a Fluctuating Credit Card Charge Relative to the Prime Rate" (H.P. 1606) (Presented by Representative JOSEPH of Waterville) (Cosponsors: Speaker MARTIN of Eagle Lake, President PRAY of Penobscot, and Representative ROLDE of York) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)  
Sent up for concurrence.

Taxation

Bill "An Act Enabling Towns to Establish Municipal Land Banks" (H.P. 1607) (Presented by Representative MITCHELL of Freeport) (Cosponsors: Senators CLARK of Cumberland, DIAMOND of Cumberland, and Speaker MARTIN of Eagle Lake) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)  
Sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative MOHOLLAND from the Committee on Transportation on Bill "An Act to Enable the Department of Transportation to Produce the State Map" (H.P. 1421) (L.D. 2010) reporting "Leave to Withdraw"

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

PASSED TO BE ENGROSSED

Bill "An Act to Amend the Requirements for Personal Service in an Action for a Guardianship or Conservatorship" (Emergency) (S.P. 897) (L.D. 2257)

Bill "An Act to Assist Consumers in Obtaining Redress for Violation of their Rights by Regulated Utilities" (S.P. 899) (L.D. 2259)

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

PASSED TO BE ENACTED

Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year

1986 (H.P. 1594) (L.D. 2239)

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. 102 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

ENACTOR

TABLED AND ASSIGNED

An Act to Extend the Trust Land Designation of the Penobscot Nation (S.P. 721) (L.D. 1844) (S. "A" S-412 to C. "A" S-402)

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

On motion of Representative Cashman of Old Town, tabled pending passage to be enacted and tomorrow assigned.

PASSED TO BE ENACTED

An Act to Assure Independent Advocacy for Institutionalized Developmentally Disabled Persons (S.P. 819) (L.D. 2064) (C. "A" S-426)

An Act to Promote Intensive Spruce-fir Management (H.P. 1468) (L.D. 2070) (H. "A" H-571; H. "B" H-595)

An Act to Amend Maine's Abandoned Property Law (H.P. 1577) (L.D. 2224) (H. "A" H-599)

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

ENACTOR

TABLED AND ASSIGNED

An Act to Modernize the Telephone Excise Tax (H.P. 1595) (L.D. 2240)

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

On motion of Representative Cashman of Old Town, tabled pending passage to be enacted and tomorrow assigned.

The Chair laid before the House the following item: An Act to Require Employers to Notify Employees of the Termination of Group Insurance (H.P. 1564) (L.D. 2209), which was tabled earlier in the day and later today assigned pending adoption of House Amendment "A" (H-604).

Subsequently, House Amendment "A" was adopted.



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

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(Off Record Remarks)

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On motion of Representative Vose of Eastport,  
Adjourned until March 27, 1986, at nine o'clock  
in the morning.

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