

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 Father Mark P. Ouellette, St. Augustine's Church, Augusta.
National Anthem by the Waterville High School Band.
The Journal of Thursday, March 27, 1986, was read and accepted.
Quorum call was held.

PAPERS FROM THE SENATE

Bill "An Act Enabling Towns to Establish Municipal Land Banks" (S.P. 893)

Came from the Senate indefinitely postponed.

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

Was indefinitely postponed in concurrence.

Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (S.P. 905) (L.D. 2272)

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

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act Relating to Commercial Vehicles" (S.P. 914) (L.D. 2282)

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

Was referred to the Committee on Transportation in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Business and Commerce reporting "Leave to Withdraw" on Bill "An Act Relating to the Update of the Pharmacy Laws" (S.P. 791) (L.D. 1990)

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

Ought to Pass in New Draft/New Title

Report of the Committee on Human Resources on Bill "An Act Making Mandatory Certain Discretionary Powers of the Commissioner of Corrections" (S.P. 301) (L.D. 790) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require a Report from the Maine Correctional Advisory Commission Concerning

Correction Service Programs and Rehabilitation Services" (S.P. 907) (L.D. 2270)

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.

LATER TODAY ASSIGNED

The Committee on Agriculture to which was referred Bill "An Act to Clarify the Role of Cooperatives under the Maine Milk Pool" (S.P. 707) (L.D. 1832)

In the absence of a Committee Report the Original Bill appears before the House, pursuant to Joint Rule 13.

Came from the Senate with the Bill passed to be engrossed as amended by Senate Amendment "A" (S-439)

On motion of Representative Michael of Auburn, tabled pending consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act Concerning the Allocation of Certain Operating Costs of the Administration of the Maine Children's Trust Fund" (Emergency) (H.P. 1566) (L.D. 2211) which failed of enactment in the House on March 24, 1986.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-585) and Senate Amendments "A" (S-432) and "B" (S-437) in non-concurrence.

On motion of Representative Gwadosky of Fairfield, the House voted to recede and concur.

ORDERS

LATER TODAY ASSIGNED

On motion of Representative BAKER of Portland, the following Joint Resolution: (H.P. 1623) (Cosponsors: Senators ANDREWS of Cumberland, KERRY of York, and Representative JOSEPH of Waterville)

JOINT RESOLUTION MEMORIALIZING THE MAINE STATE RETIREMENT SYSTEM TO MAKE FURTHER LIMITATIONS ON INVESTMENT AND DIVESTITURE OF PUBLIC FUNDS IN THE REPUBLIC OF SOUTH AFRICA AND NAMIBIA

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Twelfth Legislative Session, now assembled, most respectfully request and petition the Board of Trustees of the Maine State Retirement System, as follows:

WHEREAS, the Republic of South Africa practices a policy of racial segregation, known as apartheid, which discriminates against Blacks, persons of mixed race and persons of Asian origin, who comprise more than 80% of the population of the Republic of South Africa; and

WHEREAS, this practice results in these groups being denied South African citizenship; places severe restrictions on freedom of speech and movement; and restricts access to education, housing and public facilities; and

WHEREAS, apartheid and the policies associated with apartheid are used to separate non-whites family members from each other, to justify the torture of and destruction to Blacks, Asians and persons of mixed races; and to deprive non-whites of a decent standard of living; and

WHEREAS, many citizens of the State have expressed concern regarding these inequities and injustices and are of the opinion that corporations in which public funds are invested should treat all of their employees in a socially responsible manner; and

WHEREAS, most of the recent "reforms" of the government of the Republic of South Africa are not substantive reforms and are intended only to give the appearance of reform; and

WHEREAS, the Joint Resolution of the First Regular Session of the One Hundred and Twelfth Legislature has been complied with by the Board of Trustees of the Maine State Retirement System and the Treasurer of the State of Maine to the extent that each has divested their accounts of all securities issued by companies and corporations doing business in South Africa and Namibia which have not signed the Sullivan Principles; and

WHEREAS, the situation in South Africa has worsened and more aggressive divestment is justified; now, therefore, be it

RESOLVED: That we, your Memorialists, respectfully request and petition the Board of Trustees of the Maine State Retirement System and all other persons who serve as trustees for public funds to reduce their total accounts, consistent with the requirements of the "prudent man rule," in securities issued by companies and corporations doing business in South Africa and Namibia by 1/3 of their current total holdings and to accomplish this divestment by concentrating upon companies and corporations doing business in South Africa and Namibia and who are not in Categories I or II according to the most recent report of the Sullivan Program; and be it further

RESOLVED: That the Executive Director of the Maine State Retirement System and the Treasurer of the State of Maine report the results of their divestment efforts to the Joint Standing Committee on State Government on January 1, 1987; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Board of Trustees of the Maine

State Retirement System, the Treasurer of State of Maine, the Members of the Maine Congressional Delegation, the Secretary of State of the United States, the President of the United States, Prime Minister P.W. Botha of the Republic of South Africa and Ambassador Bernadus G. Fourie, Ambassador of South Africa to the United States.

Was read.

On motion of Representative Gwadosky of Fairfield, tabled pending adoption and later today assigned.

SPECIAL SENTIMENT CALENDAR

Recognizing:

Shawn McNutt, of Sebago Lake, an Eagle Scout, who, as his community service project to achieve the rank of Eagle Scout, undertook to identify and help restore the elm trees in his community and who inspired the Boy Scouts to undertake the project on a national level; (HLS 893) by Representative GREENLAW of Standish. (Cosponsors: Senator BLACK of Cumberland and Representative KIMBALL of Buxton)

On motion of Representative Greenlaw of Standish, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw. Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I have the pleasure today to introduce Shawn McNutt. There is a handout on your desks telling what he accomplished with the elm tree program in the State of Maine and nationwide.

I have known the McNutt family for 40 years. These children are a combination of old family Diaz and McNutt. This family has saved the State of Maine by raising their own children and making good citizens out of them and not asking for programs.

Mr. Speaker, if you would, I would like you to introduce the mother and father of these children.

The SPEAKER: Shawn, could you please stand and accept the greetings of the Maine House. (applause, members rising) The Chair would ask the parents of Shawn to please stand and accept the greetings of the Maine House. (applause)

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative MURRAY from the Committee on Business and Commerce on Bill "An Act Pertaining to the Establishment of Mandatory Risk-sharing Plans" (H.P. 1456) (L.D. 2053) reporting "Leave to Withdraw"

Representative DESCOTEAUX from the Committee on State Government on RESOLVE, Creating a Study Commission on Emotionally Stressful Job

Classifications in State Government (Emergency) (H.P. 1426) (L.D. 2016) reporting "Leave to Withdraw"

Representative LACROIX from the Committee on State Government on Bill "An Act to Place the State Lottery Commission and the Director of State Lotteries within the Department of Finance and Administration" (H.P. 1389) (L.D. 1958) 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 CASHMAN from the Committee on Taxation on Bill "An Act to Remove Maximum Annual Limits on the Captured Assessed Values within Tax Increment Financing Districts" (H.P. 1328) (L.D. 1863) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1622) (L.D. 2285)

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

Ought to Pass in New Draft

Representative MANNING from the Committee on Marine Resources on Bill "An Act Concerning Atlantic Salmon" (H.P. 1392) (L.D. 1963) reporting "Ought to Pass" in New Draft (H.P. 1621) (L.D. 2284)

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

Ought to Pass in New Draft/New Title

Representative LANDER from the Committee on Labor on Bill "An Act Relating to Medicaid and Other Services and Payments Pending Hearing and Decisions under the Workers' Compensation Act" (H.P. 1486) (L.D. 2098) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Workers' Compensation Act to Require Prepayment for Medical Aids and to Make Corrections Relating to Foreign Employees" (H.P. 1618) (L.D. 2274)

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

Divided Report

TABLED AND ASSIGNED

Majority Report of the Committee on Labor on Bill "An Act to Amend the Law Relating to Group Health Insurance" (H.P. 1460) (L.D. 2057) reporting "Ought to Pass" in New Draft (H.P. 1615) (L.D. 2273)

Signed:

Senators: BLACK of Cumberland
TUTTLE of York

Representatives: BEAULIEU of Portland
TAMMARO of Baileyville
HALE of Sanford
RUHLIN of Brewer
JOSEPH of Waterville

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

Signed:

Representatives: LANDER of Greenville
BONNEY of Falmouth
HEPBURN of Skowhegan
BEGLEY of Waldoboro
WILLEY of Hampden

Reports were read.

Representative Beaulieu of Portland moved that the House accept the Majority "Ought to Pass" Report. On motion of the same Representative, tabled pending her motion and later today assigned.

Divided Report

TABLED AND ASSIGNED

Majority Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act Concerning the Protection of the Natural Resources on the Lower Penobscot River" (H.P. 1395) (L.D. 1967)

Signed:

Senators: KANY of Kennebec
USHER of Cumberland

Representatives: RIDLEY of Shapleigh
COLES of Harpswell
HOGLUND of Portland
DEXTER of Kingfield
BROWN of Livermore Falls
HOLLOWAY of Edgecomb
LAW of Dover-Foxcroft

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-608) on same Bill.

Signed:

Senator: EMERSON of Penobscot

Representatives: MICHAUD of Medway
JACQUES of Waterville
MITCHELL of Freeport

Reports were read.

Representative Michaud of Medway moved that the

House accept the Minority "Ought to Pass" Report.

On motion of the same Representative, tabled pending his motion and later today assigned.

Divided Report

Majority Report of the Committee on Legal Affairs on Bill "An Act to Further Competition with New Hampshire in the Liquor Trade" (H.P. 19) (L.D. 17) reporting "Ought to Pass" in Second New Draft under New Title Bill "An Act to Provide for the Waiver of the 10-mile Radius Restriction and to Allow the State Liquor Commission to Establish One Additional Discount Liquor Store" (H.P. 1619) (L.D. 2281)

Signed:

Senators: TRAFTON of Androscoggin
NAJARIAN of Cumberland

Representatives: REEVES of Pittston
PERRY of Mexico
PAUL of Sanford
RIOUX of Biddeford
WARREN of Scarborough
MURPHY of Berwick
MASTERMAN of Milo
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: DILLENBACK of Cumberland

Reports were read.

Representative Reeves of Pittston moved that the House accept the Majority "Ought to Pass" Report.

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

Representative HIGGINS: Mr. Speaker, a parliamentary inquiry?

The original bill, L.D. 17, dealt with "An Act to Further Competition with New Hampshire in the Liquor Trade" which was to establish an additional discount store somewhere near the New Hampshire border. This particular bill that is reported out of the committee deals with that but it also deals with a waiver of a 10 mile radius restriction on agency stores. I would pose a question whether or not that is germane to the original bill?

The SPEAKER: The Chair would have to rule that it is germane since the Chair has to assume that the waiver to the 10 mile radius could potentially impact the New Hampshire border.

Subsequently, the Committee Report was accepted, the bill read once and assigned for second reading later in today's session.

CONSENT CALENDAR

FIRST DAY

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

(H.P. 1539) (L.D. 2170) RESOLVE, Authorizing a Continuation of the Study of the Utilization of Vacant Buildings at Pineland (Emergency) Committee on Human Resources reporting "Ought to Pass"

(S.P. 720) (L.D. 1843) Bill "An Act to Amend the Charter of the Lucerne-in-Maine Village Corporation" (Emergency) Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-436)

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

CONSENT CALENDAR

SECOND DAY

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

(S.P. 778) (L.D. 1959) Bill "An Act to Clarify the Procedure for Appeals of Decisions of the Public Utilities Commission" (C. "A" S-435)

(H.P. 1418) (L.D. 2007) Bill "An Act to Amend the Maine Implementing Act with Respect to the Houlton Band of Maliseet Indians" (C. "A" H-607)

(H.P. 1439) (L.D. 2030) RESOLVE, Directing the Director of the Bureau of Public Lands to Convey the State's Interest in Certain Lands Surrounding Little Sebago Lake (C. "A" H-609)

(H.P. 1559) (L.D. 2198) Bill "An Act to Improve the Management of Maine's Forest Recreation Resource"

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

BILLS IN THE SECOND READING

LATER TODAY ASSIGNED

Bill "An Act to Improve Lobster Research and Management" (H.P. 1597) (L.D. 2248)

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

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bost.

Representative BOST: Mr. Speaker, Men and Women

of the House: We are waiting for a technical amendment.

On motion of Representative Diamond of Bangor, tabled pending passage to be engrossed and later today assigned.

PASSED TO BE ENGROSSED

Bill "An Act Relating to Medicaid Fees for Pharmacies" (H.P. 1611) (L.D. 2268)

Bill "An Act to Conform State Income Tax Laws Relative to Premature Retirement Plan Distributions" (H.P. 1609) (L.D. 2265)

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

ORDERS OF THE DAY

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

An Act Concerning Liability Insurance for Commercial Whitewater Outfitters (Emergency) (H.P. 1600) (L.D. 2254)

TABLED - March 27, 1986 by Representative MURPHY of Kennebunk.

PENDING - Passage to be Enacted. (Roll Call Requested)

On motion of Representative Allen of Washington, retabled pending passage to be enacted and later today assigned.

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

An Act to Facilitate the Collection of Child Support (S.P. 887) (L.D. 2246)

TABLED - March 27, 1986 by Representative ALLEN of Washington.

PENDING - Passage to be Enacted.

On motion of Representative Allen of Washington, retabled pending passage to be enacted and later today assigned

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

An Act to Bring into Conformity Municipal and State Subdivision Laws (H.P. 872) (L.D. 1229) (C. "A" H-572)

TABLED - March 27, 1986 by Representative MICHAUD of Medway.

PENDING - Passage to be Enacted.

Subsequently, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

BILL HELD

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, is the House in possession of: Bill "An Act to Revise the Energy Building Standards Act" (H.P. 1385) (L.D. 1954)

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

Representative Carter of Winslow, having voted on the prevailing side, moved that the House reconsider its action whereby the House voted to Adhere.

On further motion of the same Representative, tabled pending his motion and later today assigned.

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 ALLEN from the Committee on Judiciary on Bill "An Act to Guarantee Insurance Coverage for Child Care Centers and Family Day Care Providers Licensed by the State" (H.P. 1394) (L.D. 1966) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative ALIBERTI from the Committee on Business and Commerce on Bill "An Act to Authorize Preferred Provider Arrangements in Maine and to Establish a Cash Reserve Requirement for Health Maintenance Organizations" (H.P. 1466) (L.D. 2068) reporting "Ought to Pass" in New Draft (H.P. 1625) (L.D. 2290)

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

CONSENT CALENDAR

FIRST DAY

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

(H.P. 1457) (L.D. 2054) Bill "An Act Relating to Cancellation and Nonrenewal of Property and Casualty Insurance Contracts" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-612)

(H.P. 1430) (L.D. 2021) Bill "An Act to Clarify

the Law to Provide for Notice to the Mother When an Individual Acknowledges Paternity of a Child Born out of Wedlock" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-611)

There being no objections, the above items were ordered to appear on the Consent Calendar later in today's session 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 Resolve was received and, upon the recommendation of the Committee on Reference of Bills, was referred to the following Committee, Ordered Printed and Sent up for Concurrence:

Energy and Natural Resources

RESOLVE, Authorizing the Sale of Certain Public Reserved Lands in Winterville Plantation (H.P. 1626) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsor: Senator McBREAIRTY of Aroostook) (Submitted by the Department of Conservation pursuant to Joint Rule 24)

(Ordered Printed)
Sent up for concurrence.

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

(Off Record Remarks)

On motion of Representative McGowan of Canaan, 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. 4 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Judiciary on RESOLVE, to Establish a Special Commission to Examine Limitations on Awards Granted through Tort Litigation (H.P. 1303) (L.D. 1819) reporting "Ought to Pass" in

New Draft under New Title RESOLVE, to Establish a Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine (Emergency) (H.P. 1624) (L.D. 2289)

Signed:

Senators: CARPENTER of Aroostook
SEWALL of Lincoln
CHALMERS of Knox

Representatives: KANE of South Portland
CARRIER of Westbrook
COOPER of Windham
PRIEST of Brunswick
DRINKWATER of Belfast
PARADIS of Augusta
MacBRIDE of Presque Isle
LEBOWITZ of Bangor
ALLEN of Washington

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

Signed:

Representative: STETSON of Damariscotta

Reports were read.

Representative Paradis of Augusta moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I suppose you are all wondering why I should vote against such a wonderful bill. This is not one of the wonder bills but I do favor this bill in principle. The reason I registered this negative vote is because I was disappointed that the study calls for an examination of, not only the Tort Litigation, but also the insurance business as well. I think the insurance business has been studied to death. I think this is delaying what we have got to address and that is the whole question of Tort Liability and that is why I registered that one negative vote. I hope that we will get to that in the near future for the protection of the people of the State of Maine.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I think that this is a very important study that we hope to conduct. I think it is very much needed and long overdue.

Not in recent history has there been a state ordered study of the Tort system. I think it is extremely important that there is one now. Throughout the various committees in the legislature this year, we all have been dealing with liability and all the problems that have been created. Nothing to date has related the Tort system to the insurance system. This study will do this and it is a compelling need. We are dealing with medical liability now but then there are other areas that are also having problems and we need to deal with those.

The Business and Commerce Committee has had a study on insurance. During that study, time and

again, the Tort issues came up and we found that there wasn't a solution to them. This study will combine the two. The commission will be made up of eleven members, three Senators, one each from the Judiciary, Business and Commerce, and Legal Affairs Committees. There will be three Representatives, one each from the Judiciary, Business and Commerce and Legal Affairs Committees. There will be one member from the Maine Trial Lawyers Association, one member from the Maine State Bar Association, two members from Insurance Providers and one public member. The Superintendent of Insurance will be asked to serve as an advisor and the Chief Justice of the Supreme Court will be asked to appoint a judge or justice to serve as an advisor. During the course of this study, extensive use will be made of the material that the Business and Commerce Committee contained in their insurance study.

I do feel this is going to be very useful and, hopefully, it will help our citizens to resolve many of the problems which they have. I certainly hope you will support the Majority "Ought to Pass" Report, a twelve to one report.

Subsequently, the Majority "Ought to Pass" Report was accepted, The bill read once and assigned for second reading, April 1, 1986.

Divided Report

Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-615) on RESOLVE, Authorizing the Exchange and Sale of Certain Public Reserved Lands (H.P. 1516) (L.D. 2145)

Signed:

Senators: KANY of Kennebec
USHER of Cumberland
EMERSON of Penobscot

Representatives: MITCHELL of Freeport
MICHAUD of Medway
JACQUES of Waterville
RIDLEY of Shapleigh
COLES of Harpswell
HOGlund of Portland
DEXTER of Kingfield
BROWN of Livermore Falls
HOLLOWAY of Edgecomb

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

Signed:

Representative: LAW of Dover-Foxcroft

Reports were read.

Representative Michaud of Medway moved that the House accept the Majority "Ought to Pass" Report.

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

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: There are a lot of places I would rather be this afternoon than standing before

this august body on the tail end of a twelve to one report.

However, I have some problems with the bill. My biggest problem is I support about 90 percent of the bill. The Bigelow Tract is one of the most wonderful things that has happened to the state. We are closing in a big section of the Bigelow Tract. On the Reed Pond Tract, I think there is 1200 acres of old growth timber around Reed Pond, that is a thing that we should get into. That is going to go to the Nature Conservancy.

There is a problem with the Scraggly Lake Tract. If a couple of problems could be ironed out on that, I would support that also.

I am going to try to draw a verbal picture for you. Picture the State of Maine owning a half a township, 13,000 acres and to the west of that township, the Huber Company owns a township; to the southwest is Baxter State Park; to the south is a tract by the Indian Nation -- there is a road running from southeast to the northwest cutting off about ten percent of that tract. The road is a Bureau of Public Lands road -- the bureau is proposing to exchange that road and the ten percent of the land to the southwest of that road, which corners on Baxter State Park and is adjacent and contiguous to the Indian Tract, to the Huber Corporation.

Our state law requires that we have a multiple use plan, a comprehensive land use plan, for all of the public land we have. I can conjecture up a dozen reasons why we should not give up this land, including every one of the resources. Obviously, if it is just conjecture, somebody else can conjecture up a reason why we should have it. My problem is that there is no land use plan that says whether we need or not need this land. They have not considered it, in relation to Baxter State Park, they have not considered it in relation to the Indian land that is there and they have not considered it in relation to the rest of the Scraggly Lake Tract. Until they can tell me why they don't want it and have an open forum and let everybody have their input, I don't think that we should be giving up that land.

I don't know whether Baxter State Park wants that land or not, but neither do they. During the work session, the director said and I will quote it as near as I can, "We met three weeks ago and we didn't talk about it." I don't think they would care if we got rid of it; in fact, I am sure they wouldn't care." Well, he went from not even talking with the rest of the Baxter State Park officials, he is one obviously, but he did not talk with them and has no idea. I happen to know by the grapevine there are some of the officials from Baxter State Park that do not want to get rid of the piece of land. But that part is irrelevant too.

All I am really asking for is a multiple use plan on the project that is required by law before we get rid of that piece of land.

The agreement that we have allows this not to be done now but the time for closing can be extended for the two parties. I just would like to have you think about that before you vote for it.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: May I pose a question?

I would like to know if there is a fiscal note on this bill?

The SPEAKER: The Chair would advise the

Representative from Wells, Representative Wentworth, that no fiscal note is required since this bill will actually accrue \$684,580 to the state treasury.

Subsequently, the Majority "Ought to Pass" Report was accepted and the Resolve read once.

Committee Amendment "A" (H-615) was read by the Clerk and adopted and the Resolve was assigned for second reading April 1, 1986.

CONSENT CALENDAR

FIRST DAY

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

(H.P. 1489) (L.D. 2105) Bill "An Act Providing for the 1986 Amendments to the Finance Authority of Maine Act" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-613)

There being no objections, the above item was ordered to appear on the Consent Calendar of Tuesday, April 1, 1986 under the listing of Second Day.

CONSENT CALENDAR

SECOND DAY

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

(H.P. 1539) (L.D. 2170) RESOLVE, Authorizing a Continuation of the Study of the Utilization of Vacant Buildings at Pineland (Emergency)

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

AS AMENDED

(S.P. 720) (L.D. 1843) Bill "An Act to Amend the Charter of the Lucerne-in-Maine Village Corporation" (Emergency) (C. "A" S-436)

On objection of Representative McHenry of Madawaska, was removed from Consent Calendar, Second Day.

The Committee Report was accepted and the Bill read once.

Committee Amendment "A" (S-436) was read by the Clerk.

Representative McHenry of Madawaska offered House Amendment "A" (H-620) to Committee Amendment "A" (S-436) and moved its adoption.

House Amendment "A" (H-620) to Committee Amendment "A" (S-436) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill

assigned for second reading April 1, 1986.

(H.P. 1457) (L.D. 2054) Bill "An Act Relating to Cancellation and Nonrenewal of Property and Casualty Insurance Contracts" (C. "A" H-612)

(H.P. 1430) (L.D. 2021) Bill "An Act to Clarify the Law to Provide for Notice to the Mother When an Individual Acknowledges Paternity of a Child Born out of Wedlock" (C. "A" H-611)

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

PASSED TO BE ENGROSSED

Bill "An Act to Require a Report from the Maine Correctional Advisory Commission Concerning Correction Service Programs and Rehabilitation Services" (S.P. 907) (L.D. 2270)

Bill "An Act to Remove Maximum Annual Limits on the Captured Assessed Values within Tax Increment Financing Districts" (Emergency) (H.P. 1622) (L.D. 2285)

Bill "An Act Concerning Atlantic Salmon" (H.P. 1621) (L.D. 2284)

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

SECOND READER

LATER TODAY ASSIGNED

Bill "An Act to Amend the Workers' Compensation Act to Require Prepayment for Medical Aids and to Make Corrections Relating to Foreign Employees" (H.P. 1618) (L.D. 2274)

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

On motion of Representative Beaulieu of Portland, tabled pending passage to be engrossed and later today assigned.

As Amended

Bill "An Act to Provide for the Waiver of the 10-mile Radius Restriction and to Allow the State Liquor Commission to Establish One Additional Discount Liquor Store" (H.P. 1619) (L.D. 2281)

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

Representative Reeves of Pittston offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-623) was read by the Clerk.

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

Representative REEVES: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is being offered to attempt to allay some of the concerns that committee members and other legislators regarding section one of this bill, which gives the Liquor Commission the ability to waive the ten mile radius, in establishing a new agency liquor store.

The reason why the committee responded to the Executive Director of the Liquor Commission's request to consider a waiver was that he testified that rents for state liquor stores were going up exorbitantly particularly in the Augusta and South Portland areas. This amendment limits the commission's application of a waiver to circumstances where the landlord of the state liquor store increases the rent or gives notice of a pending increase in the rent to the state liquor store to a level which the commission is not able to operate the store at that location for a reasonable return. It does not amend section two of the bill, which provides for an additional discount store in Kittery, to serve the southbound lane of the Maine Turnpike.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: I rise to speak against the amendment sponsored by Representative Reeves. This amendment, in our opinion, opens a lot of doors. The waiver of the ten mile limit is still in that bill and this amendment would extend the door open much wider.

I hope that you follow my light and vote this amendment down. I am prepared to offer an amendment that will address the problem.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: We certainly do want to vote this amendment down. The original bill wasn't satisfactory and now we have two amendments coming forth. The amendment which will be presented later is the amendment we want to put in.

One of the arguments the Liquor Commission had in the original bill was that they wanted to have this ten mile limit done away with so that they could open agency stores. This amendment says that they can do it on two conditions. The problem we are having with this amendment is, right here in Augusta is a good example, the rent is too high in the shopping center but every town in the State of Maine has empty stores on Main Street. You don't have to put your liquor stores in the shopping centers, they can be some place else, there are many available stores at lower rents. So, no matter what they do, every year the rent is going to be higher in any location and that would be the excuse then to say we can't pay the rent, it is too high, so therefore, we will have to have agency stores.

You know and I know that that is just a nice little way of doing away with your state liquor stores. That is something that I do not want to have happen.

Therefore, I would suggest that you vote against

this amendment and we will see what Amendment "A" has to offer.

The SPEAKER: The pending question before the House is adoption of House Amendment "B". Those in favor of adoption will vote yes; those opposed will vote no.

A vote of the House was taken.

5 having voted in the affirmative and 98 in the negative, the motion did not prevail.

Representative Perry of Mexico offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-621) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment removes Section 1 of the bill, which deals with the ten mile waiver. Passage of this would result in the final bill permitting a new discount store to be built along Rt. 95 near exit 1 and it would also leave Section 3 of the bill in it. I would like to read Section 3 for the Record. "Notwithstanding the other provisions of this section, the commission may from time to time, establish special prices on certain listed liquor items to be made available to the consumer at all state stores. The special prices may not be lower than the price established for the same listed item at two authorized special discount state stores."

Subsequently, House Amendment "A" was adopted.

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

SECOND READER

TABLED AND ASSIGNED

Bill "An Act to Authorize Preferred Provider Arrangements in Maine and to Establish a Cash Reserve Requirement for Health Maintenance Organizations" (H.P. 1625) (L.D. 2290)

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

On motion of Representative Brannigan of Portland, tabled pending passage to be engrossed and tomorrow assigned.

FINALLY PASSED

Constitutional Amendment

RESOLUTION, Proposing Amendments to the Constitution of Maine to Change the Reapportionment Procedures to Reflect Changes in Legislative Procedures and to Specify how the Reapportionment Commission should Operate (H.P. 1599) (L.D. 2252) (H. "B" H-602)

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

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 2252 is a Resolution proposing an amendment to the Constitution of Maine to change the reapportionment procedures to reflect changes in legislative procedures and to specify how the reapportionment commission should operate. It is the redraft of L.D. 697, which I sponsored and which was cosponsored by Speaker Martin of Eagle Lake, Senator Sewell of Lincoln and Senator Pray of Penobscot.

This new draft is a result of the original bill and the diligent, thoughtful work of the State Government Committee over both the first and second sessions of the 112th Legislature. The new draft has been widely distributed to interested parties, both those involved in reapportionment in years past and those interested in the procedure at the present time. Comments have been received, reviewed, and considered.

The bill received a unanimous "Ought to Pass" Report from the committee. It will require a two-thirds vote of both the House and Senate and then would be on the ballot in November as is required of a constitutional change.

The Constitution of Maine requires that a reapportionment plan for the House of Representatives and the State Senate shall be submitted to the State Legislature every tenth year following the federal or state census and sets that guideline for the composition of the reapportionment commission, its rules and regulations. The commission also reapportions the Congressional Districts and the County Commissioner District. I was a member of the most recent reapportionment commission.

This bill seeks to make a few changes to assist the reapportionment process, to provide additional safeguards and to make the operational instructions clearer.

Briefly then, these are the changes: the bill extends the time the commission has to complete its work from 90 days to 120 days. Originally, the legislature convened the first part of January. Now with the convening of the legislature to the first part of December and only briefly then, the whole month of December is lost for the reapportionment commission, since the members are not in Augusta. That created a time problem so this change extends the time limit to 30 days to make up for the lost 30 days. It instructs that any population remainder within a municipality shall be districted with contiguous territory and shall be kept intact.

It allows the commission to adjust errors and inconsistencies in implementing the plan in accordance with the standards set forth in the constitution so long as no substantive changes are made and with a unanimous vote of the commission members.

It sets a quorum of eight being present instead of the seven from the 15 member commission. It outlines budgetary requirements and rate of pay for the commission members and for the commission itself. It states the constitutional questions be placed on the ballot. Much careful thought has gone into this procedure. The whole reapportionment process is complicated, demanding, exacting. These changes should be most helpful in clarifying the process.

The SPEAKER: This being a Constitutional Amendment, and a two-thirds vote of the House being

necessary, a total was taken. 117 voted in favor of same and 1 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

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 (S.P. 787) (L.D. 1980) (C. "A" S-429)

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. 108 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

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

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

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

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. 118 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

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

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

PASSED TO BE ENACTED

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

An Act to Increase the Amount of Insurance for Vehicles Used in Transporting Students (S.P. 830) (L.D. 2090) (S. "A" S-433)

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

An Act to Require Employers to Notify Employees of the Termination of Group Insurance (H.P. 1564) (L.D. 2209) (H. "A" H-604)

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.

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

PAPERS FROM THE SENATE

Study Report

Joint Select Committee on Nursing Care Needs

Report of the Joint Select Committee on Nursing Care Needs to which was referred the Study Relative to the Current and Projected Needs of Maine Citizens for Additional Nursing Care Services, pursuant to Resolves 1985, Chapter 47, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Authorize Additional Facilities for Long-term Care" (S.P. 913) (L.D. 2280) be referred to the Joint Standing Committee on Human Resources for public hearing and printed pursuant to Joint Rule 18.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Appropriations and Financial Affairs and ordered printed.

Report was read and accepted and the bill referred to the Committee on Appropriations and Financial Affairs in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Provide Assistance to Mature Industries" (S.P. 802)

(L.D. 2015)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Classify AIDS as a Dangerous Communicable Disease for the Purpose of Public Health" (S.P. 825) (L.D. 2085)

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

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

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

Legal Affairs

Bill "An Act to Provide a Liquor License for Auditoriums" (H.P. 1628) (Presented by Representative DIAMOND of Bangor) (Cosponsors: Representatives MICHAEL of Auburn, LEBOWITZ of Bangor and Senator BALDACCI of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)
Sent up for concurrence.

PASSED TO BE ENGROSSED

Bill "An Act to Authorize Piscataquis County to Raise Up to \$2,400,000 for Renovation and Expansion of Jail Facilities" (H.P. 1629) (Presented by Representative MASTERMAN of Milo) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Under suspension of the rules, without reference to any committee, the bill was read twice, passed to be engrossed 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:

(S.P. 861) (L.D. 2175) Bill "An Act to Continue Use of Computer Match Programs to Determine Eligibility of Public Assistance Recipients" (Emergency) Committee on Human Resources reporting "Ought to Pass"

There being no objections, the above item was ordered to appear on the Consent Calendar of Tuesday, April 1, 1986 under the listing of Second Day.

The following items appearing on Supplement No. 6 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Enhance the Protection of Mental Health Recipients' Rights (S.P. 896) (L.D. 2253) (S. "A" S-434)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

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

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

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I couldn't let the opportunity slip by without an explanation after the 40 hours of work that the committee put in on this bill. I want to explain to the members of this body what we did in our committee regarding Certificate of Need.

I don't think there is anyone here today who hasn't heard from a hospital about the concerns of Certificate of Need. As a result of those concerns, the Human Resources Committee studied the Certificate of Need all last Spring, Summer, and Fall.

As a result of that study, we brought forward a bill, L.D. 2018, which you have on your desk. The committee had a fine hearing, series of work sessions, and we amended that bill by Committee Amendment "A" presented before you.

I would like to explain to you and for the Record, what we have done to the Certificate of Need process, keeping in mind that we believe there should be some regulatory review and that it should be flexible, workable, and fair.

I am particularly pleased and proud of the committee after the many, many hours of hard work, that we had a Unanimous Report from this committee.

Basically, L.D. 2018 amends the Certificate of Need to make the Certificate of Need process more responsive to the health care systems needs. Currently, the amount of new money available for capital expenditures and new services is limited by the capital development account. Only projects which have received a Certificate of Need approval may adjust their financial requirements and acquire the additional revenue to fund these projects. This bill would set aside twenty percent of that capital development account and make that money available to hospitals without a Certificate of Need review.

Unlike current projects which a hospital undertakes without CON approval, under this bill, projects which

are included in that twenty percent special account will be added to the hospital's base financial requirements, that is their budgets, and expenses will be coverable by hospital revenues.

The original bill divided the funds -- the twenty percent special account amongst all the hospitals. What we finally did in committee, remembering the importance of small hospitals and the need to protect them and to allow them special privileges, so that we will have access to quality care for all the citizens of the State of Maine, it was decided during the committee's deliberations that the committee would amend the bill to address the needs of the small hospitals. We did it this way. Each hospital would receive a standard allocation from that twenty percent fund, but a minimum of amount equal to one-half of one percent of that total account would be distributed among the small hospitals in the State of Maine. They would all get a minimum of \$6,000. It is sort of like playing golf, you would have a handicap, and that handicap for every small hospital in the State of Maine, is \$6,000. The remainder of that special account would still be divided among the hospitals based on their respective proportionate share of the total of their financial requirement.

A hospital has access to this funding authority because the account has no money. It just gives the authority to spend money for use as the hospital sees fit, for projects with a financial impact of \$150,000 or less. Unused amounts in each hospital's account would be carried forward to the subsequent years, so if a hospital had \$10,000 -- you say, what could a hospital do with a project for \$10,000 -- they wouldn't need to go to Certificate of Need -- well maybe not much the first year but they might be able to do something with \$20,000 that has accumulated the second, and \$30,000 the third year. You must understand that in these projects, no Certificate of Need is needed.

A hospital's financial requirement will be adjusted to reflect the additional income needed to fund this project. It is in terms a "pass through", the very thing that the hospitals have wished, have pleaded for. They now have a pass through of \$150,000 or less for projects. No one is going to review this. The Hospital Care Finance Commission will assure the hospitals that they would receive this payment. The effect, while not increasing or decreasing the total funds available to hospitals through the development account, the proposal will expedite the process, minor projects, eliminate the department's determination and approval of needs for these projects and finally, provide hospitals with additional flexibility to support projects which have been previously subject to review, and therefore, not eligible for direct adjustments to their financial requirements.

We also added a special edition changing the criteria of the development account. Hopefully, there might even be some more money, who knows, there certainly won't be less. We also added a section to be sure that, when reviewing Certificates of Need, that any application of a facility within thirty miles of the state's borders be considered. This section was originally introduced in another bill. We also said, no anonymous letter received by the commission would be used in anyway at all in judging whether a Certificate of Need would be granted.

I think this is a very reasonable, sound, approach. As I said, I am particularly proud of the

committee and all of the people who were interested in this. This will help your hospitals, it will help the people of the State of Maine to have access to quality care.

Subsequently, the bill was passed to be enacted, signed by the Speaker, and sent to the Senate.

PASSED TO BE ENACTED

An Act to Create a Noncommercial Scallop License and to Adjust Fees for the Scallop Boat License (H.P. 1537) (L.D. 2173) (S. "A" S-438)

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

The following items on Supplement No. 7 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative BROWN from the Committee on Education on Bill "An Act to Provide Funds for Support of the Maine Teacher in Space Program" (H.P. 1518) (L.D. 2147) 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 items appeared on the Consent Calendar for the First Day:

(H.P. 1569) (L.D. 2219) Bill "An Act to Provide Technical Assistance to Schools on Truancy, Dropouts and Alternative Educational Programs and to Amend the Permanent School Fund" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-618)

(H.P. 1497) (L.D. 2110) Bill "An Act to Amend the Maine Osteopathic Student Loan Program" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-619)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 1, 1986 under the listing of Second Day.

The Chair laid before the House the following matter: Bill "An Act to Clarify the Role of Cooperatives under the Maine Milk Pool" (S.P. 707)

(L.D. 1832) which was tabled earlier in the day and later today assigned pending consideration.

The bill was read once.

Senate Amendment "A" (S-439) was read and adopted and the bill assigned for second reading Tuesday, April 1, 1986.

The Chair laid before the House the following matter: Joint Resolution: (H.P. 1623) Joint Resolution memorializing the Maine State Retirement System to make further limitations on investment and divestiture of public funds in the Republic of South Africa and Namibia which was tabled earlier in the day and later today assigned pending adoption.

Subsequently, the Joint Resolution was adopted and sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Labor on Bill "An Act to Amend the Law Relating to Group Health Insurance" (H.P. 1460) (L.D. 2057) reporting "Ought to Pass" in New Draft (H.P. 1615) (L.D. 2273) which was tabled earlier in the day and later today assigned pending the motion of Representative Beaulieu of Portland that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Men and Women of the House: This is the second bill that we have had in a two week period that affects health insurance. We have managed to get along for about fifty years with this thing with no legislation, no controls at all on it and everybody was happy. In the past two weeks we have had two. If you recall, the one two weeks ago today, had to do with notice of change of insurance carriers or discontinuance of the coverage. The one today started off as L.D. 2057, under a new title and a new number. It is now 2273. In the process of doing that, we have managed to take one page and a half and make seven and a half pages out of it.

What it does in effect is to guarantee that people under certain circumstances, if they are laid off or out under Workers' Comp, can continue the group coverage at their own expense. That in itself seems obnoxious enough and it probably is, but the problem is this coverage is voluntary on the part of the employer. It always has been. Now we are attempting to regulate it and harness it with bureaucratic nonsense to a point where it is not going to be acceptable to employers.

It sure is coverage at a lower cost for the employee and also the amount of money that is dedicated to it or given to it on the part of the employer is not considered to be taxable and therefore, it is a benefit in that respect. The large employers, if we continue to go this route of regulation, I am convinced, will go self-insurance. Some of them already have, they can afford to do it, they have the numbers to do it, they will go that way and the benefits from it are -- it takes it out of state control and it goes under federal control. It

removes it from the red tape process. The other part of it that is beneficial is, there is no tax paid on the premiums as such because there are no premiums.

The small employer is simply going to go home and say, to heck with this nonsense. I don't have to live with this, there is no law that says I have to have it, I am simply going to cancel it. He calls his employees in, he will write them a letter saying he is going to discontinue the coverage and that is that. It is simply becoming too loaded with bureaucratic red tape.

I think it is a very self-defeating measure and I am convinced that what this trend started will not stop immediately because it becomes a characteristic that the bureaucracy has to get itself involved in fixing things that don't require fixing.

I urge you to vote against the pending motion and ask for a roll call.

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

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I wish to assure all of you this is not a bureaucratic nonsense bill. First of all, I ask you to be aware that twenty-three other states have similar laws on their books. We are not mandating a new insurance program to any employer. This deals with group health plans that are already in place. Most large employers such as BIW, who is self-insured, already has a similar process in their contractual agreement. So even those who are under the self-insurance program recognize the value of what we are asking for.

What we are saying is, if an individual is temporarily laid-off -- in other words, he is told by his employer, we are letting you go for a couple of months, we plan to call you back, he or she will be able to continue their group health plan under the group rate. If an individual is out on Workers' Compensation, partially disabled, he or she will be able to continue under that group plan rate for a six month period. If he is permanently disabled, he would be allowed, if he opts to, to take advantage of it and stay under the program up to one year.

In the hearings that we held last year over changes in Workers' Comp, most of the employee representatives and the employees themselves, who spoke to us then, said that the hardest thing they had to face was not being able to afford insurance for their families, once they went on Workers' Comp.

In the current law, they are able to change and secure their own insurance after a thirty day period and that is it. We are asking for an extension of time, allowing them to pay at the group rate. During the hearing, some people raised the issue of administrative costs -- what costs? Giving a receipt to an employee who comes in to pay his monthly premium? Most companies already have on their lists who is out on Workers' Comp and who has been laid-off so we don't see any costs incurred at that end of the line. That was one of the reasons why we wound up with a Divided Report.

We need to remember that the employee, himself or herself, will be paying the costs. Even if they are in a plan now, where the employer pays the total cost, that will no longer be the case. If they ask for this amenity, they themselves will have to pay the cost. This applies to employees whose claims are not controverted by the employer. I feel that the committee took a lot of time in reviewing this issue, we had a lot of debate and it is unfortunate that we

come out with a Divided Report, but I think that those who sponsored the bill and those who cared about doing something about this bill, did a good job of putting it together to protect, not only the employees, but the employers. For example, if they fail to pay one premium, they go off the rolls.

I think that we do need to do this. The reason the bill now has this many pages is because we had to amend the insurance law as well as the labor law. I think that we have worked very hard to put something together that will help injured workers, people who are laid off through no fault of their own, to temporarily at least, be able to protect their families. That is what this bill is all about. It is not a handout bill and, as Representative Nelson has said many times on the floor of this House, it is a hand up bill.

I urge you to support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Members of the House: I signed the Minority Report because I believe again, as before, we are in an area where we don't belong. The employer does not have to provide the group health insurance unless it is a negotiated contract. For us here in Augusta to pass a law saying that the employee must be allowed to continue group insurance, even if he pays for it, is again, an area where we should not be in.

If the employer and the employee want to arrange this voluntarily, that is fine. In fact, I understand there are many cases where this is done. I think that is just fine. But again, for us to pass a law regulating this, is wrong.

I urge you to vote against the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Lander.

Representative LANDER: Mr. Speaker, Men and Women of the House: I think this bill simply says, if you want to add more paperwork to the small businesses in Maine, then go ahead and vote yes. But if you think we have too much paperwork already involved, and you want to let the employers of the state work with their employees and provide a good health benefit program that they have come up with over the years, I recommend you follow Representative Willey's light.

I would like to remind you that we didn't have anybody from the employee group come and speak in favor of this bill. This bill came up in front of our committee and we had the lobbyists there as well as the committee and the supporters of the bill. We have a good program going out there in the field right now with the employers and the employees and the more we start regulating, the less we are going to have for employee benefits, because the little companies that have three, four, or ten employees are just going to start saying no, there is too much red tape involved, why should we get involved with it, go to your insurance carrier and get insurance on your own, we will support that program. We cannot have a program that is going to have a lot of entanglements hooked to Augusta. We just passed one here a few minutes ago, it went down under the hammer.

I recommend that you follow Representative Willey's light on this and send a message to small businessmen that the state is keeping out of your pocket.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support the Majority Report. This bill is not a burden to employers; in fact, it is an asset to employers. It gives employers the opportunity to offer this coverage to their injured or laid off employees for a specific length of time. It allows their employees to remit payment to the company. The company will pay for a group policy based on the number of employees.

All this does is reimburse the employer for the amount that he would pay for his employee as a single, a two-family, or as a family. It also ensures the employer of a happy employee, an employee that will recuperate faster because he does not have to worry about medical coverage for nonwork related illness for himself, plus his family is covered for this time.

I have worked for employers that offer this. They are not union, there are no contracts; in fact, I was amazed that so many employees were not offered this. In fact, from the inception of this bill, I have talked to some of the former employers that I worked for that did offer this service to their employees and I questioned very closely the burden that they thought this would be. I happened to work for twelve years taking payment when people were not able to work, when required by the company. Out of 175 employees, which is a small business, we had very few that were out or had to remit payment. The company always felt it was for, not only the employees benefit, but theirs. I ask you to follow the light of Edie Beaulieu when you vote.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: Just a couple of points that I want to make. In the first place, most of the previous speakers have said that the plan works fine, there is nothing wrong with it, it works great, so we are going to regulate it. It is a big help.

The second point I want to make is that it is true, most of the employers in the past have extended this sort of thing to their workers when they are laid off or out sick, wounded, injured, whatever the case may be. It has been offered by most of them but not all of them.

The other point I want to make is in the instance of a small employer. It is very burdensome, they are burdened with paperwork now to the extent that they cannot see straight. It is even worse, I think, in the instance when you think of a large employer. I think the second largest Blue Cross and Blue Shield plan is in the Merchants Association. It is all on computer. The limits are entirely different, the time elements are entirely different. The first thing they have to do is reprogram the computer because it goes by computer. That to me is a hardship and I think in the instance of an employer like that, obviously the best thing to do is get out and do something else.

I think this is far more poisonous than most of you think it is and I urge you to vote against it.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Men and Women of the House: I would like to address one thing as far as Blue Cross and Blue Shield is concerned. I was very fortunate that my company offered Blue Cross and Blue Shield. I was a remitter for Blue Cross and

Blue Shield. The printout did come through from Blue Cross and Blue Shield but it was up to the company and the remitter. Fortunately, my company trained me right. It is up to other companies to train their personnel, when that comes through, to watch and note which people are out, which people have had services terminated for one reason or another.

This is not a burden, it is just part of your everyday clerical job as far as remitting to Blue Cross and Blue Shield.

The SPEAKER: The Chair recognizes the Representative from Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to give you the other side of the picture if I could. As most of you know, I have been a small businessman for most of my life. The company that I own and operate, I have offered my employees to keep their Blue Cross and Blue Shield when they have gotten through, whether it be because they have retired or they have been sick or what have you. True, I don't have very many but I think right now there are four or five that I carry on the Blue Cross and Blue Shield that no longer work for me. I have done it more of a favor to them because, being a real small operation, I knew most of them on a real personal basis and we are somewhat like a big happy family.

I can see where that could be a problem because I carry mine through the New England Business Association. Every three months when the bill comes, I have to pay. There are occasions when these poor people that I have, haven't paid me. I have always paid it and, fortunately, caught up with them later on.

I could see maybe in a larger operation where you had 25, 35, or 40 people working for you, getting up toward 100, that could be a bit of a problem. I know that I wouldn't want to get involved to that extent, so I was wondering if you might think of that side of it and maybe we would be better off if we didn't go along with this Majority Report.

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

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I wish every employer was like Representative Ridley but, unfortunately, that is not the case. It is made very clear in the bill that if the employee asks for this courtesy from his employer, "that if he fails to make the required premium payments or if he becomes eligible for coverage under another policy, he will not be in the program."

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and Women of the House: I think it is unfortunate that most of us receive our health insurance through our employers because it means that most of us don't know what kind of health insurance, or whether we will have health insurance in a few months, next year, or five years from now.

We cannot, with certainty, predict whether we will be employed or where we will be employed. But while it is true that we don't require employers to provide health insurance for their employees, that is the system that we have in this state and, for the most part, across the country. By default, we are expecting most people to receive their insurance through their employer. Most families cannot afford to purchase on an individual basis, and hence, if

they aren't eligible for a group policy through their employer or perhaps through some organization that they may belong to, then they go without health insurance. They need to be a part of a group in order to make that health insurance affordable, and indeed, many small employers need a group of a particular size in order to get a rate from a health insurance company that makes it affordable for them to be able to offer that health insurance to their employees.

I think this bill may be able to help both the employers and the employees, because it may, during a brief period of time when an employer is laying off a few of his employees, enable that group to remain sufficiently large enough so they can continue to get the group rate that they have been getting.

There are an increasing number of Maine families that are finding themselves without health insurance for short periods of time, partly because of being laid off or because of changing jobs. We need to find ways to enable them to continue health insurance during these interim periods and I see this bill as one small step in helping in that direction.

I would ask you to vote with the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Men and Women of the House: I think a lot of our debate here this evening has concentrated around the paperwork issue and the bother to the employer of processing people who wish to continue under a group health policy. However, I think the big issue and the big potential cost of this whole bill would come through the process of adverse selection in insurance as far as the group to be insured is concerned.

Studies have shown that, when an individual is at liberty to pick whether or not he will continue with group health insurance, those individuals who tend to be more at risk, tend to continue their insurance, and those who are not so much at risk, might try to chance it and therefore, not continue the insurance. That doesn't sound so bad but the result of this is that the group itself becomes a more hazardous group to insure and therefore, the rates for the whole group would increase.

Legislation is being considered at the federal level. It is being battered around the House Ways and Means Committee in Washington and language currently in the bill would allow employees to charge their employers 102 percent of normal group rates, just to take into account this additional adverse selection concept. I think we should stick with the policy pursued currently which allows employers to offer this benefit to their employees if they so desire.

I think we should stick with the majority of the states which operate the way the State of Maine does. I think we should work to keep the costs of group insurance down so that more Maine workers can be insured with group health benefits.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: Adverse selection in this bill is not an issue. These people on this group insurance policy are presently part of that policy. You must remember that these people are only people who are temporarily laid off or, in fact, they are people on Workers' Compensation on non-controverted cases. This is not a freebie for anybody. This is a

courtesy, this is a thoughtful gesture, this will not incur more paperwork for small businesses, and in fact, as was recently stated by the Representative from Brunswick, the employer's rates may be less because they are sharing the risks with more policy holders. What this bill really does, and don't be confused, is that it gives a helping hand to a worker in transition at their own expense for a short period of time.

I urge you to support the Majority Report and vote against the Minority Report.

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

Representative HILLOCK: Mr. Speaker, Men and Women of the House: A question just rose to my mind. I would like to pose the question.

In reference to Representative Ridley's comment on the employees that he carries on his group insurance, if the instance arose where they refused to pay for their quarterly or monthly payment, and the employer had already paid the insurance company, would he be out that money or would he have to seek legal action from the employee to collect it back?

The SPEAKER: Representative Hillock of Gorham has posed a question through the Chair to anyone who may respond if they so desire.

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

Representative BEAULIEU: Mr. Speaker, Men and Women of the House: Failure to pay the employer would be termination. He could not belong to the program and it would be stopped by the employer and the insurance company. He would lose any coverage.

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 Beaulieu of Portland that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

Representative Carter of Winslow was excused pursuant to Joint Rule 10.

73 having voted in the affirmative and 60 in the negative with 17 being absent and 1 excused, the Majority "Ought to Pass" Report was accepted, the New Draft was read once and assigned for second reading Tuesday, April 1, 1986.

(See Roll Call No. 271)

The Chair laid before the House the following matter: Bill "An Act Concerning the Protection of the Natural Resources on the Lower Penobscot River" (H.P. 1395) (L.D. 1967) which was tabled earlier in the day and later today assigned pending the motion of Representative Michaud of Medway that the House accept the Minority "Ought to Pass" Report.

On motion of Representative Michaud of Medway, retabled pending his motion and tomorrow assigned.

The Chair laid before the House the following matter: Bill "An Act to Improve Lobster Research and Management" (H.P. 1597) (L.D. 2248) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Bost of Orono offered House Amendment "B" (H-616) and moved its adoption.

House Amendment "B" (H-616) was read by the Clerk and adopted.

Representative Crowley of Stockton Springs offered House Amendment "A" (H-606) and moved its adoption.

House Amendment "A" was read by the Clerk.

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

Representative CROWLEY: Mr. Speaker, Men and Women of the House: L.D. 2248 is a bill to establish a lobster research and management system within the State of Maine. The bill has four distinct goals all pertaining to lobster research and management.

In Section 1, you will notice we established a scientific research program through the Department of Marine Resources in our research labs and we are going to combine this with the labs of the University of Maine, the University of New Hampshire and the University of Maine Sea-grant Colleges. They are both Sea-grant colleges and they get Sea-grant monies. They share this with the Department of Marine Resources to develop new and better programs for the fisheries.

For example, the University of Maine at Machias has just gone into a new Marine Biology Studies program. Within the last couple of weeks, they filed an application with the people from Cutler, Maine in establishing a lobster hatchery. We feel with this popular theory that education and the economy are tied together. We are trying to tie cooperation and the coordination between our education and Marine Resources.

The second section of the bill -- to increase the minimum measure from the present 3 and 3/16 inches. We didn't need the Botsford Study to point out the need for this action. The Department of Marine Resources biologists, the Canadian biologists, the New Hampshire biologists, the Massachusetts biologists, and so forth accepted this need years ago. In 1978, Massachusetts ran a bill exactly like this and once again they are going to try it. They have this on the docket right now ready to amend and go together with us.

90 percent of the lobsters caught by Maine fishermen are landed before they reach maturity and reproduce. One out of fifty female lobsters just don't make it. We have over two million traps in the water and we are catching the same number or fewer lobsters than were caught in 1957, when over 24 million pounds were caught. The pressure on the resource, especially in Maine, is much too much. The Botsford Study points to the Rhode Island experiments starting in 1977, when Rhode Island had a minimum measure of 3 and 1/16 inches. In 1977 and 1978, Rhode Island increased their minimum measure by 1/32 of an inch. They paused for a couple of years and, then in 1981 and 1982, they put in another two years of 1/32 to reach the same kind of an increase we are talking about of a 1/8 increase over the five year period.

The thing with the Rhode Island Study shows that the increase and the statistics are here and they show that in 1977, they had a 200,000 pound landing in Rhode Island. When they finished the experiment a year later, they had 2.1 million lobsters landed in Rhode Island. I don't think the experiment hurt them a bit.

Our bill asks for a 1/32 increase in 1988 and 1989, and then with a pause of a year, we will add two years in 1991 and 1992 of 1/32 in each of those years. All states and Canada must be bound by this or no action by Maine or any other state will be taken. In other words, it is a fair and a safe bill. There are no problems attached.

The V-notch program in Maine has been running for some 50 years and absolutely ignored by every other lobster fishery in the world, Canada and every other state. They don't believe in it but we believe it is a good program. This bill will require that the other states honor the V-notch lobster program but it does not require them to V-notch as Maine fishermen do. This is a breakthrough for the Maine lobster fishery program and quite a few of the fishermen are quite excited about the fact because they think this is one of the better conservation measures we have going. This bill would bring this about.

In Section 6 of this bill, it said it will become effective, I think this is very important, when the New England Fisheries Management Council has amended the American Lobster Fishery Management Plan and the United States Secretary of Commerce promulgates the appropriate rules to implement the schedule of increase. What does the New England Fishery Management Council think of this plan? In February of 1986, the New England Fisheries Management Council voted on this plan with the V-notch and the increase exactly as we have it here and they voted in favor of the package 14-3. I am sure if we get this through, this may be the start of something big.

In Massachusetts, the legislation is ready. The bill is in the hopper. They are in session all year, so they don't have to run the bill this week or next week or next month even. Maine and Massachusetts catch more than 80 percent of U.S. lobsters. Maine, Massachusetts and Rhode Island catch over 90 percent; thus we will lead the industry in the only conservation measure that seems possible.

I think the biggest thing in this whole bill is, how does Canada feel about this? We talk about Canada and our potato industry, we talk about Canada and our lumber industry and on and on -- I had a paper that I sent out to you from a Steve Green, the Commissioner in Canada. He said the lobster bill is a bigger threat than the countervailing duties. This is a direct quote of Steve Green. He is the Fisheries Trade Commissioner of Canada. This is what he says in his article: "This would mean that the Canadian lobster, below the minimum size, would then be illegal." Mr. Green said, "lobster fishing from Rhode Island and Massachusetts have been pushing for this lobster measure increase, this increase in the limit." I have news for Mr. Green -- Maine lobster fishermen are also way ahead of Massachusetts and Rhode Island. No more Canadian dumping of lobsters of minimum or below minimum size lobsters. We cannot help the potato industry, evidently, and we cannot help the lumber industry, but by golly, we can help this one. This is the vehicle to help our fishermen, because if it works in the lobster industry, it will also work in the other fishing industry. It may be a

saving grace for the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Stonington, Representative Rice.

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in support of L.D. 2248, "AN Act to Improve Lobster Research and Management." I did not arrive at my decision to support this bill easily. As many of you know, I live on an island and I represent many different kinds of fishermen -- scallop draggers, clam diggers, musselers, fin fishermen, and lobstermen -- over 400 lobstermen. For the next few minutes, I hope you will listen carefully to my questions and my answers.

The question -- Lobstermen don't want any increase in the measure. True, some don't, but 60 percent of mine, who took the time to respond to a postcard question that I sent only to licensed lobstermen, want an increase with the restrictions as outlined in this bill.

The question -- Maine lobstermen will be at a disadvantage with the largest lobster measure in the nation. Not true. The bill clearly states that all lobster producing states will adopt an increase and a national minimum size will be established. If this doesn't happen, the bill is dead.

The question -- Maine lobstermen will be hurt financially if their lobster measure is increased. Maybe. The decline of three to four percent in the number of pounds landed may happen but I would like to share with you the thoughts and predictions of a fisherman from my district, someone who is not a part-time legislator, doesn't own a business, but has been lobstering for more than thirty years.

I quote, "In my thirty-odd years of being a lobster fisherman, I have seen a very small percentage of egg bearing lobsters below 3 and 5/16 inches as measured by the back shell, probably not over five each year. Therefore, I would have to question the impact strictly on egg-producing lobsters, if this is the rationale behind the proposed bill. However, if the reason is for the law to produce more pounds of lobsters without increasing the numbers of lobsters caught, yes, I believe a better product will be harvested, which will produce a better price, and I emphasize, a better product harvested that will produce a better price."

The question -- This bill is weak, the federal government and the other states will never go along with Maine's idea. An article in the Ellsworth American recently categorized this concept and the bill as iffy. True. The bill is complicated. It demands unanimous agreement and cooperation, but it is not for my protection or for your protection, but for the protection of every licensed lobsterman in this state. This time, let Maine be the leader and not the follower. This time Maine can say, we will support an increase in the minimum, if all the other lobster producing states adopt the increase, V-notch protection, and a federal minimum is established. This time Maine will be able to prod the federal government and the national Marine Fisheries Service, not with the words of individuals, but with the actions of this legislature.

Finally, I would like to leave you with the words of Bill Caldwell from a recent column entitled, "Changes Ahead for Lobstering." Bill wrote, and I quote, "This Spring the moment is at last ripe and feasible for a breakthrough in which all lobstering areas, including most of Canada, could finally work together to protect the future of the lobstering

industries. This could be the Spring when a gauge-sized increase and cooperative protection of V-notch lobsters would pass simultaneously in Maine and Massachusetts, but let any element -- scientists, lobstermen, dealers, bureaucrats or politicians lock horns obstinately with one another and the new alliance could burst into hostile pieces."

I urge you to carefully consider your vote on L.D. 2248 today.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: I have a question for the Chair.

Are we addressing the bill or the amendment at this point?

The SPEAKER: The pending question before the House is adoption of House Amendment "A".

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Salsbury.

Representative SALSBUURY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you all have looked at the name of this piece of legislation and amendment. It says "An Act to Improve the Lobster Research and Management." To me, it is an anti-jobs bill.

I represent about 480 lobster fishermen in my district. The overwhelming majority of those are full-timers and they are opposed to this legislation. When the vast majority of my fishermen are for or opposed to any piece of legislation, as their Representative, I am their voice here in Augusta. Today on this issue, their voice says loud and clear, vote no on increasing the minimum size.

Maine has an excellent conservation program for the lobster industry, mainly the V-notch program and its double gauge measure. My lobstermen want just two things, better law enforcement of the existing laws, and above all else, to be left alone and quit tampering with a system that works.

A recent report from the DMR concerning 1985 landings confirmed that our conservation measures are working and they certainly should be left alone. With a one million pound increase over 1984, we must be doing something right. If Massachusetts and the other lobster producing states bring their conservation measures up to ours, namely instituting the V-notch program and prohibiting the taking of lobsters over five inches, then and only then will I consider increasing the minimum size.

Time and again you have heard the phrase, "If it isn't broken, don't fix it." But now that expression has been replaced and the new one as printed on an office wall down on the first floor, "If it is not broken, break it." That is what this bill does. It attempts to solve a problem that does not exist.

I urge your support in defeating this.

The SPEAKER: The Chair recognizes the Representative from Franklin, Representative Connors.

Representative CONNERS: Mr. Speaker, Men and Women of the House: I signed the Majority "Ought to Pass" bill out but that was with two measurements over a four year period. Now that this amendment gives an eighth of an inch instead of a sixteenth, I will have to oppose the amendment.

Representative Zirkilton requested a Division on the motion to adopt House Amendment "A".

The SPEAKER: The pending question before the House is adoption of House Amendment "A". Those in

favor will vote yes; those opposed will vote no.

A vote of the House was taken.

56 having voting in the affirmative and 37 in the negative, House Amendment "A" was adopted.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: Before I get all wound up, let me request a roll call.

In the debate I have heard so far, the one thing that surprised me is, the entire argument that was made in the committee for the acceptance of this bill hasn't been made on this floor. It has changed between the first floor and the third floor of this building. The entire argument down there dealt with juvenile recruitment, increasing the minimum size to get mature lobsters to make sure that we had more juvenile recruitment in the industry and they used the Botsford Study as the basis in the justification for this.

There have been some suggestions that I haven't read the Botsford Study and those suggestions are right, I haven't read it, I studied it, and I studied it very carefully. Right in the foreword, the author of the study makes the following statement: "We hope this report is taken as it is intended, namely as an informative guide to the issues underlying current policy decisions rather than as a recommendation for a specific policy."

Somebody, apparently, has finally read the foreword and they are not going to attempt to use this report up here though it was used extensively by the department downstairs.

Let's look at a little background. This entire thing is supposed to be for conservation. The Department of Marine Resources Press Release dated March 12th, "Maine lobster landings reported for 1985 exceeded 20 million pounds and showed a respectable increase over the 1984 landings of 19,367,000 pounds. The 1985 landings exceeded the 20 year average catch by just under one million pounds. The industry, as a whole, maintains a healthy production apparently near the maximum potential production of about 22 million pounds."

Further on it states, "Neither the most recent landings data nor the Botsford Report suggest imminent decline in the landings." On one hand, the department is telling us that this industry is in good health, it is near its maximum potential, we aren't facing any imminent decline of landings or collapse of the industry but, on the other hand, they are telling us that we have got to take Draconian measures to protect the resource.

We have had varying people mention about how many lobstermen they have in their districts and how important it is to them. There are approximately 8,300 licensed lobstermen, full-time and part-time, in this state. 1,673 of them are in my district, 7,500 people and 1,673 lobster licenses. Four of the top five landing ports in this State of Maine are in my district and, until redistricting, I had all five of them. The lobster industry is the economic base and entire backbone of the existence of my four towns and four islands.

Let me tell you what these people are going to face if this bill passes here and is enacted through regulation by the federal government. According to the Botsford Report, three to five percent loss of volume landings -- now that is based on an annual

molt and an annual molt rate of 14 percent. Lobsters don't grow a little bit at a time, they molt their shells and grow a whole bunch.

We are talking about spreading the molt over a five year period. As the lobsters get older, the molts become less frequent. To give you a rough example -- the Hewes Study, which by the way, neither the department nor the committee took into consideration, observations on the Biology of the American Lobster, *Homarus Americanus* by John T. Hewes and George Matherson. John Hewes was the Director of the Massachusetts Hatchery from 1948 until a few years ago when he retired. Mr. Matherson works for the Department of Marine Fisheries in Massachusetts.

In the eight year period where they studied over 1,000 lobsters continuously, there were 257 molts. The last two of 257 molts took place in the seventh years and eighth years. Mr. Botsford uses the basis of 14 to a 15 percent molt. Mr. Hewes, in his study, shows a range of 7.5 percent to 14.4 percent but a mean and average percentage increase in molt of 10.9 percent, which puts both the mode and the median, for those of you who understand statistics, below 10 percent. So, when we start looking at the economic projections now, the only reason I have gone through this is so you will realize that Mr. Botsford's economic projections are on the high side, not the average side or the low side. When he says 3 to 5 percent loss, that is the best possible figure he can come up with. If he took the low side, he would be talking about 7 to 11 percent gross volume loss. So, we are working on the side that is best for the study and it is the best for the bill but not the best for the industry.

Let's look at what it is going to cost these fishermen. There are 8,300 full or part-time fishermen. They operate on approximately a 20 percent profit margin. You take 3 to 5 percent off the top, his expenses remain the same and he is then facing a 14 to 25 percent annual income loss for a five year period. That is based on the best figures.

I have seen bills in here to try to save 800 jobs. I have seen bills in here to try to save 50 jobs. Here we are dealing with a bill that is going to adversely impact an industry where, in order to save the resource which doesn't need saving, in all likelihood, we are going to kill an industry. If there was any justification for this bill, if the lobster resource were in danger, if we were showing a decline, if fishermen in other states thought it was right and we were the odd man out, I would think seriously of supporting this bill. The simple fact is the State of Massachusetts, the Massachusetts Lobstermen Association, on the 19th of March, voted on three issues. They voted on recognition of the Maine V-notch program, they voted on the implementation of their own V-notch program and they voted on the minimum size increase. Guess what? They voted to recognize the Maine V-notch program. They voted to lobby their state legislators to implement their own V-notch program and they unanimously opposed any increase in the minimum size.

I have no doubt that down the road I will get up again because I will think of some things that I forgot but I would just like to refer you to a statement that was made a little earlier by my good friend from Stockton Springs that the Massachusetts biologists support this, the Massachusetts fishermen support this. Mr. John Hewes, the former Director of the Massachusetts Hatchery for over 30 years -- I

will give you the final paragraph in his study, Observations of the American Lobster--Homarus Americanus. "In the absence of information on mortality rates", (and if we want to get into study that is confirmed that is still there, natural mortality rates) "efforts to change existing fishing regulations on the fisheries such as the minimum carapace length requirement of 3 and 3/16 in Massachusetts would hardly seem justified, at least in Massachusetts, where the lobster fishery has been relatively stable during the past decade".

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I, too, have over 400 licensed lobster fishermen in my district and I, not only talked to a number of them, I sent out the Botsford Report to each and every one of them for them to review. With any luck at all, they will have an opportunity to discuss with each other and then make recommendations to those of us down here who are now toying with their futures.

To once again reiterate some of the things that have already been said, a recent article -- a news release actually from the Department of Marine Resources that was printed in last week's Ellsworth American said, as Representative Scarpino mentioned a moment ago, "that all available information has been summarized as a basis for legislative action. Neither the most recent landings data nor the Botsford Report suggest imminent decline of landings."

So, I stand here wondering exactly what it is that this body is attempting to do today, if, in fact, all scientific evidence points to the fact that the industry is not in any imminent danger at this particular point -- then what are we doing? Is there a problem?

A lot of people think there is a problem but most of that concentrated effort seems to be in the fact that there are now more lobster traps in the water than ever before, figures have been thrown toward you -- upwards of 2 million traps. Some people have even said more. As a matter of fact, our Governor, at the Maine Fishermen's Forum, was quoted as saying, "Fishing pressure is high, the number of traps grows each year and every year it takes more traps and more expense to catch a single lobster. Maine lobsters are being overfished."

Now, if I may, I will take a brief moment to read a letter from a fisherman in my district who read that report and responded to me with this letter. He said, "I have read the report you sent on the analysis of the lobster fishing policy in Maine. I think it only addressed some of the possible problems that may or may not happen. It didn't address the real problem at all, in my mind, which is too many traps being fished by most everyone in the lobster fishery. The high number of traps being fished has been caused by two major facts, when the hydraulic trap hauler came into the market, it allowed everyone to be able to haul about twice as many traps per day as they could before. Then came the vents, which was a good thing for the fishery but this made hauling traps even faster due to the fact that handling all the short lobsters were eliminated because they could crawl out of those vents." So, what has caused this problem that we are discussing today, if the problem is more traps in the water than ever before, is technology. Technology has enabled the fishermen now

to go out and haul those traps with a hydraulic hauler instead of by hand. Now his time that he spends on each trap is so greatly reduced that he can now fish so many more traps during a day than he ever could before and that is what has resulted from so many traps being in the water.

Representative Crowley has said the catches remain virtually the same or possibly a little bit lower than it did in 1957. That means, to me anyway, that we are catching just about as many lobsters as we are going to catch, regardless of how many traps are in the water. If I am not mistaken, I believe that we did have a small gauge size increase since that time, which my fishermen refer to as the starvation measure, which obviously did not result in any substantial increase in the amount of lobsters being landed.

I would suggest to you today that this bill does nothing in my mind to address what most people perceive to be the problem and that is too many lobster traps in the water. What will happen, indirectly, is that this bill will somewhat control the number of traps in the water merely by the number of fishermen who will haul their traps up and start looking around for some other way to try and make a living.

I would suggest to you that, if you want to do something to help the fishermen of this state, that you start paying more attention to the lobster trap limit bills that have been introduced in this legislative body for the last several years in a row and have received very little attention.

Something was said about the National Marine Fishery Service. Richard H. Schaeffer, who is the regional director of that organization, has said Maine's efforts to have its voluntary conservation program included in the Federal Lobster Management Plan has been rejected twice by the National Marine Fisheries Service. The reasons for rejection were because of a lack of convincing scientific evidence and because it would be nearly impossible to enforce. He goes on to talk briefly about that enforcement by saying that there are only 26 federal patrol officers between Canada and North Carolina. Basically, what he is telling us with that information is that, if it is going to be enforced, it is going to have to be enforced by the states. Ladies and gentlemen, I can tell you that we have a major enforcement problem in this state right now. If you don't believe that, talk to any of the fishermen and they will tell you.

I think it is a bad bill and I hope you will support us in rejecting it.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I stood before this legislature last year and voted against my Chairman of the Marine Resources Committee because I felt that all the conditions that were necessary for me to support this bill weren't present.

There was a study made, which has been referred to, and I think it is a good study. My good friend, Representative Scarpino, is right, it didn't make any specific recommendations. However, it left it in the judgment of the committee.

I think the main thing that we should remember is that the conditions in this bill says that, unless everyone does it, that is the New England States and Canada, (I believe it is Canada, I am not so sure

about that, I think it is) unless we all do the same thing, nothing is going to happen. We are just simply taking our step in what we consider the right direction for conservation measures. Obviously, the larger the lobster, the more eggs, hopefully, we will get and the most important thing of all, is the V-notching. I think that is more important to me than anything else. I think it is probably more important to those that have spoken on the floor and to the lobstermen. It has apparently been working in Maine, it is a darn good program. The knowledge that I just learned today on the floor -- as a matter of fact Representative Scarpino told me a couple of days ago about this, that Massachusetts has adopted the V-notch, I think, is really terrific. Remember, by Massachusetts voting against the increase in size, nothing will happen to the size here in Maine, it is not until all agree. I think as long as we take a step in that right direction and we show them that we are willing to do this for conservation purposes and, if they do it, I think it is a step in the right direction. That is what we voted on and each state has to take a position in order to do so. I hope you support this bill.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Members of the House: Since I have many lobstermen in my district, I attended the Fishermen's Forum in Rockland, both last year and this year. I have talked to many lobstermen in my district since the day of the forum. I have had quite a bit of input from them. I have not found or heard from one lobsterman who agrees with this study and report.

I just want to follow up and say they are especially against the increase in the minimum size. The lobstermen I have talked to are not interested in even trying to work it out with the other states. They are very supportive of the fact that we do the V-notching voluntarily and they are real proud of this fact.

I agree with Representative Salisbury that I am their voice here in Augusta and I shall be voting against this bill.

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

Representative SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: I have heard the year 1957 bantered around a number of times in using that as a base here to say we are down a little bit, we are a little bit under it. I think everyone should recognize that the year 1957, for whatever reason, had the highest landed lobster catch in one year in the history of the State of Maine. Right now, we are a little bit under the record year. I don't think that is too bad.

I also want to refer, once again, to what the cost is going to be to the fishermen and the families of those fishermen. You have to understand something, that if this bill passes, the economic impact is going to be so great you are going to see this hard nosed Republican put in a bill in the next session to provide some kind of economic subsidy to the families of these people when this gets enacted because that is how serious it is.

We are talking about people's businesses and people's livelihood, the loss of those businesses and livelihoods.

NMFS came out last week in the Bangor paper with

the fishing catches. Let's see how this works with the Canadian import when we have an increase in our landing and what it does to the price when we have a decrease and what it does to our price with the Canadian import coming in and filling up the vacancy, the vacuum in our market.

In general fish landings last year, there was a 1.2 percent reduction in volume, a 6.8 percent reduction in income. So, they don't track. You are not getting the compensatory increase in price for the decrease in volume, you are getting another foreign product coming in, a subsidized product, that is filling up that vacuum.

Shell fish, generally, a 2.1 percent reduction in volume and an 11 percent reduction in income. That doesn't track either because the product, a subsidized product, comes in and undercuts the market. Lobsters track the same way. Actually last year, we can't really use the lobster figure, we had an increase in product; we had a compensatory decrease in price. However, the decrease in price was greater than the increase in the product -- there was a 4 percent in product and a 10 percent decrease in price.

Botsford, basically in his study, said that the price supply was an elastic, that they tracked within one percent of each other, up and down. The Botsford Study was done in a vacuum, it ignored the environment, it ignored (unfortunately, not the time) other products coming into the market. The economic impact in this bill will be disastrous.

The tool that we are giving the other states -- to quote my good friend or paraphrase my good friend from Eastport, Mr. Vose, is a pistol with one round in it with the hammer open over the chamber and it's pointed at our heads and when they implement it, they are going to blow the brains out of this industry in this state. That is exactly what is going to happen. I would urge your opposition to this bill.

The SPEAKER: The Chair recognizes the Representative from Stonington, Representative Rice.

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I am a little perplexed at the arguments that are being given here today. I had not intended to rise again but I, in no way, would be supporting a bill that I felt would put the fishermen in my district out of business. I have a business that depends on their business. The State of Maine must have faith in the town of Stonington since we have a beautiful new fish pier. So, I guess I have been offended at people saying that this will put my fishermen out of business or will cause great economic hardship upon them.

I would remind all of you that I believe, and I stand to be corrected, that I am the only legislator who polled every one of my fishermen. Anybody who would like to come and examine their responses to me, the people who make their living doing this, are welcome to.

I want the Record to show the exact question that I asked them. It's very short: "Are you in favor of increasing the minimum measure by 1/32 a year for four years beginning in 1988, if all other New England states adopt the increase and a V-notch program?" Out of 400 postcards that I paid for, 200 bothered to send them back, 50 percent. I think they cared. 65 percent were in favor of this. I have to trust their wisdom. The economic hardship, if it is there, must be worth it to them.

I would like to reemphasize the last statement

that was made in the letter that I read from the fishermen — a better product will be harvested at a better price.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I really have gotten quite confused sitting here listening to this debate. I actually have not heard from the lobstermen down my way. They usually let me know when they are unhappy with a bill.

One of the things that was said here today, I would like some clarification on, so I would pose a question to anyone who could answer.

The handout that the gentleman from Stockton Springs, Mr. Crowley, gave us seemed to indicate that if we were to raise the minimum size that would, in effect, act like a tariff toward Canadian lobsters. In other words, it would keep Canadian lobsters from coming into Maine, but at the same time, if I understand correctly, it has been said that this bill would not go into effect unless all the other New England States and Canada agreed. I wonder if the gentleman from Stockton Springs or anyone else could explain that dichotomy.

The SPEAKER: Representative Rolde of York has posed a question through the Chair to Representative Crowley of Stockton Springs, who may respond if he so desires.

The Chair recognizes that Representative.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: The problem with our fishery here in Maine is, the Canadians can send undersized lobsters here and they can dump off like they do with the potato industry. If this bill goes through, as it is designed, and we have discussed this with the Marine Resource Commissioner in Massachusetts and my counterpart in Massachusetts and they are looking at the exact same language, and they all feel that if we can put this thing through, it will be just like Representative McKernan's Bill, which will never get through because it has been put under trade rather than conservation — if this bill goes through under conservation, the Secretary of Commerce can make a promulgated rule and lobsters will be of one size coming into the United States and I think that is extremely important if we can pull it off.

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 passage to be engrossed as amended by House Amendment "A" and House Amendment "B". Those in favor will vote yes; those opposed will vote no.

86 having voted in the affirmative and 45 in the negative with 20 being absent, the motion did prevail.

Sent up for concurrence.

(See Roll Call No. 272)

The Chair laid before the House the following matter: An Act Concerning Liability Insurance for

Commercial Whitewater Outfitters (Emergency) (H.P. 1600) (L.D. 2254) which was retabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Allen of Washington, under suspension of the rules, the House reconsidered its action whereby L.D. 2254 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-617) and moved its adoption.

House Amendment "A" (H-617) was read by the Clerk.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: The amendment, which Representative Allen just offered and has been accepted as one which I can live with 95 percent, so I guess that I am not going to oppose it. It still leaves a little bit of doubt in my mind, however — in talking with others out in the corridor and in the various departments, I guess that we have got to do something.

Just for your interest, on Friday afternoon as I told Representative Allen I would do, I talked to the Superintendent of Insurance and he informed me there was no whitewater liability coverage available for the rafters. I then called the Deputy Commissioner of Inland Fisheries and Wildlife and he said he had no problem because coverage is available. In fact, he went on to say, he really didn't know as we needed this bill this year.

However, in exploring it even further as this day went on, the coverage was available but apparently available to a select few rafters. So you see, as you check on these bills, you can find that there are various answers you can receive.

However, as I stated when I first arose, I will go along with this amended bill and hope that it will help the rafters at this time.

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. Sheerly for the purposes of the Record, I just wanted to make it very clear that it is the intent of the committee with regard to this amendment and with regard to the bill it is amending that there be no additional burdens placed whatsoever on insurance agents in this regard. The effect of this amendment is to put the burden squarely and fairly on the whitewater outfitter to certify that he is unable to find insurance. This is not meant, in any way, to affect any malpractice for insurance agents. It is not the intent of the committee, the bill, or the amendment.

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

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I want to support this bill but I want assurance of one thing. I talked to the sponsor prior to the meeting and she said, any mailings that they send out to people concerned about whitewater rafting would assure them that we didn't have any liability insurance.

What I would like to know is, if a person goes there, say from Massachusetts, not having received any mailing, will they be told of the fact that we have no liability insurance?

The SPEAKER: Representative Hickey of Augusta has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: In response to that question, with this amendment, we provided a section in the original bill that we are not requiring that the whitewater rafters provide a written disclosure to passengers before the raft trip and that this must be done at the time of reservation and not when they get there and not when they are ready to get on the raft. In most cases, you make your reservations in advance to make sure that there is room for you on a particular raft, on a given day, especially if you are coming here from out of state. So, that written notification would have been provided at the time of reservation. We are not going to wait until they get here and tell them -- oh, by the way..... It has to be done conspicuously so they know well in advance and they know precisely that that particular outfitter does not have liability insurance.

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

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I just want to say a few words on the Record, which I feel are important.

I was accused of all kinds of things this weekend. I had a number of calls. I was accused of having a conflict of interest because I am in the insurance business and, somehow or other, somebody interpreted that as meaning I would have a conflict of interest on this bill, even though I don't insure whitewater rafters, have never been asked to provide insurance and would have no market for them.

I was accused of being an enemy of whitewater rafters. Believe me, that is far from the truth. I hope they survive and flourish and add jobs and payroll to the Maine economy. I was also accused of being a Republican, something that I admit to gladly but, in this particular instance, the whitewater rafters called me and told me that they understood that the Republicans were trying to do away with the whitewater rafting industry and had some kind of conspiracy in the House to do this. I took great exception to that, it was not a caucus position. As far as I know, the Republicans enjoy whitewater rafting as much as the Democrats.

Basically, there is a philosophical question here -- there are several questions, -- one was philosophical -- should the state require whitewater rafters to carry insurance? This question was decided some time ago through a regulation and I assume that the reason that they did that was for the protection of the public. Obviously, the state wouldn't require whitewater rafters to carry liability insurance just for the protection of the assets of the whitewater rafters.

Then it became evident that insurance was difficult to get. I thought that the original bill (and I have some doubts about this one) was dead legislation and I like to refer to it a little bit as "kiss and make it better legislation," not really legislation that addressed the key issues.

Now we have gotten to the point of writing a bill, passing a bill, and basically addressing who is the one that is going to say what is and what is not available for insurance. The first bill said that insurance agents should attest that coverage was not

available. I could see all kinds of problems in that. The amendment before you now says that the rafters, whitewater rafters themselves, will certify to the Department of Inland Fisheries and Wildlife that liability insurance is not available, but that they have tried to get it.

I am sure that most whitewater rafters are honorable people and most of them probably have considerable net worth to protect and, therefore, would certainly try to get liability insurance. However, there may be one or more marginal operators who have little to risk, small net worth, and who obviously realize that the cost of liability insurance is going to come out of their profits and I am not sure that these people would always be forthright in reporting to the Department of Inland Fisheries and Wildlife. It might be a little bit like my wife asking me if I had eaten the last peanut butter cookie and, of course, I would say no I hadn't and probably I could keep a straight face while I was saying it.

We proposed a third change. We thought that the one that possibly could say if liability insurance was available was the Superintendent of Insurance. However, we explored that avenue and apparently the Bureau of Insurance did not want to get involved and claimed that they did not have the adequate information anyway.

Finally, I thought a better solution would be -- let's bite the bullet, kill this particular bill, then enact a bill that would state that whitewater rafters would not be subject to compulsory liability insurance as a condition of licensure by the Department of Inland Fisheries and Wildlife. This final suggestion met with a lot of opposition and I guess the support of the House is with the amendment that stands before us so, I will not attempt to fight any further.

As I say, I am not sure that this is the way to go and I certainly don't wish to create any kind of a log jam for the growing viable whitewater rafting industry in the State of Maine.

The SPEAKER: The pending question before the House is adoption of House Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

96 having voted in the affirmative and 6 in the negative, House Amendment "A" was adopted.

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

The Chair laid before the House the following matter: An Act to Facilitate the Collection of Child Support (S.P. 887) (L.D. 2246) which was tabled earlier in the day and later today assigned pending passage to be enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Amend the Workers' Compensation Act to Require Prepayment for Medical Aids and to Make Corrections Relating to Foreign Employees" (H.P. 1618) (L.D. 2274) which was tabled earlier in the day and later today assigned pending

passage to be engrossed.

Representative Beaulieu of Portland offered House Amendment "A" (H-625) and move its adoption.

House Amendment "A" (H-625) was read by the Clerk and adopted.

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

On motion of Representative Diamond of Bangor, the following was removed from the Tabled and Unassigned Table:

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1986 (Emergency) (H.P. 1534) (L.D. 2162)

TABLED - March 11, 1986 by Representative DIAMOND of Bangor.

PENDING - Passage to be Engrossed.

Representative Holloway of Edgecomb offered House Amendment "A" (H-626) and moved its adoption.

House Amendment "A" (H-626) was read by the Clerk and adopted.

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

BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1620)

An Act Concerning State Contribution to Pollution Abatement (H.P. 1469) (L.D. 2071) (H. "A" H-540; S. "A" S-389)

- In House, Passed to be Enacted on March 17, 1986.

- In Senate, Passed to be Enacted on March 18, 1986.

On motion of Representative Law of Dover-Foxcroft, under suspension of the rules, the House reconsidered its action whereby L.D. 2071 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. 2071 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-540) was adopted.

The same Representative offered House Amendment "B" (H-614) to House Amendment "A" (H-540) and moved its adoption.

House Amendment "B" (H-614) to House Amendment "A" (H-540) was read by the Clerk.

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

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I move the indefinite postponement of House Amendment "B".

The reason why I rise to indefinitely postpone House Amendment "B" (and I will be doing the same with House Amendment "A") is because this will basically add an administrative burden to the department as far as having to justify need. They will have to go through rules and regs and the

Department of Environmental Protection, in my opinion, should deal with environmental matters and should basically stay out of assessing the need aspect of that department.

We are currently dealing with legislation in our committee, the omnibus bill, and we are trying to get some language in there which would help the department move along quickly in certain applications and I think this will just add a burden to the department, so I move the indefinite postponement.

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

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: When the bill first was submitted by Representative Begley from Waldoboro, it required a rather complicated financial statement. The department said, we don't have the expertise and we don't have the time. So, some of us tried to change it to put the burden of proof on the towns but that was no good either. Then we came back with an amendment that would not require a complete financial statement but just a signed statement that the applicant needed and it was passed by both houses and sent to the Governor's desk. The department objected — they said, the applicant is really the town; therefore, the wording is wrong on the amendment. I personally think it is like hitting a moving target — if the department will not tell us exactly what the problem is, there is very little likelihood that we will ever get an amendment that they will agree with. This one here does speak to their complaint, to the Governor, that it gets rid of the word "applicant".

My honest opinion is, that is really not the problem and we are not even really shooting at the right target because the department will not tell us what the right target is.

In a conversation with the commissioner last Thursday, I will tell you what he told me and that was, that we would rather have the state pay all of the septic systems than fool with them. We didn't want to be bothered with having to chase them down. It was easier for the department to just have the state pay for the septic systems. I object to that.

I hope you will defeat Representative Michaud's motion and pass the amendment as I presented it.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker and Members of the House: I would like to give you some background on this bill.

In the past three or four years, the DEP has spent about \$3 million paying, in most cases, up to 90 percent of the cost of replacing a private individual straight-pipe with a new septic system.

In last November's election we, the citizens of Maine, voted for a \$15 million bond issue. In that bond issue, we approved another \$1 million to go to the pollution abatement grant program to be used mostly in rural areas. I was contacted by some concerned citizens in my district. They said, how come? How come the state is paying up to 90 percent to build a private individual septic system to correct the straight-pipe problem?

For example, one man who inherited some camps, I am not sure if it was four or five, had his septic system for these camps paid for by the state and he only had to pay 10 percent of the cost.

After calling DEP, I do understand the criteria

to receive this grant money because now I understand that it rests solely on the following: pollution of clam flats, pollution of inland lakes and streams and pollution of drinking water. There were four of us who introduced a bill this session asking that a means test be considered before this money would be given out, DEP does not want to do this.

We are simply saying that the amendment before you right now, although it is not a complete means test, would allow the municipalities to ask the individual to sign a paper saying he or she needs the funds. This should not be a burden to municipalities to do this.

I would like to give you another interesting point at this time. I asked a question on my questionnaire if the state should apply a means test in this case and 83 percent who answered my questionnaire said, definitely the state should be applying a means test in a situation like this, any time that the state tax money is being used to fix a private individual septic system.

DEP told us last year that about 259 people received the grant money. I strongly believe with this amendment that we can serve more families with the \$1 million that we voted last November. So, I urge you to vote no on the indefinite postponement motion before you.

Mr. Speaker, I request a Division please.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I am a cosponsor of this particular piece of legislation and I requested that Representative Begley allow me to cosponsor legislation with her because it came to my attention in my district that an individual, a very wealthy individual, got 90 percent of his pollution problem that he was causing cleared up by the state and I thought that was inappropriate. I support the amendment and I would hope that you all would too.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Michaud of Medway that House Amendment "B" to House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

10 having voted in the affirmative and 81 in the negative, the motion did not prevail.

Subsequently, House Amendment "B" to House Amendment "A" was adopted.

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

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

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Education

Bill "An Act to Reorganize the Delivery of Vocational Education in Northern Aroostook County" (H.P. 1632) (Emergency) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Senator VIOLETTE of Aroostook, Representatives THERIAULT of Fort Kent and McHENRY of Madawaska) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)

Sent up for concurrence.

The Chair laid before the House the following item: Bill "An Act to Revise the Energy Building Standards Act" (H.P. 1385) (L.D. 1954) which was tabled earlier in the day and later today assigned pending the motion of Representative Carter of Winslow that the House reconsider its action whereby the House voted to adhere.

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I would certainly hope that you don't vote to reconsider this piece of legislation. Last Thursday, I guess, was quite a day.

We have taken five roll call votes on this issue. The issue itself, I believe, is fairly simple. It is, do we take a stand or do we not take a stand towards giving an agency of state government additional new regulatory responsibilities? The first vote that was taken on that issue was some three weeks ago and, in this House, you voted overwhelmingly, as did the Speaker, not to do so. I think the vote was something like two to one. It kept coming back, coming back, and last Thursday, it came back four times. I started to see votes going all over the place -- I was wondering, what is happening? I said to my seatmate, Representative Willey, "What is going on here?" He said, "Gosh, you have been here longer than I, you should know." I smiled and said, "Yes, I guess that I do." It seems to me what has happened here is that the real issue became lost. It became lost, frankly, in the political gutters. I am not really a ball player, that may come as a surprise to some of you, but I thought what kind of play might best describe what was happening last Thursday. I guess if I were to look at basketball, the best play that I could describe, would be something called a double dribble.

To me, it is sad when the issue becomes lost. Let's get back to the issue because the issue really is, do we give more power to the bureaucracy because this is exactly what this bill will do. It gives new mandatory power to the Office of Energy Resources.

The third floor, for the last few hours, has been crawling with folks from the Office of Energy Resources, they want this very badly. They tell us it is not going to cost anything; consequently, it doesn't have a fiscal note, thereby giving it a greater chance of passage. I am not sure why it is not going to cost anything because certainly it is going to take people, it seems to me, to go out in the field and inspect these new constructions to see

if they comply with minimum standards but they tell us it is not going to so I guess that some of you might take their word for it. I am a little suspicious.

Without belaboring the issue any further, all session we have heard that the legislature should be the body that determines policy in this state and not the agencies. All session we have heard the central theme on both sides of the isle, and again including the Speaker, that we are giving too much authority, too much regulatory responsibility to the agencies and we should start curbing that. Your vote today in opposition to the pending motion for the reconsideration will do that. Your vote will let the State of Maine know whether you mean business about curbing the regulatory responsibilities of the boards and agencies or rather you are just giving lip service to it. I urge you to vote against the pending motion for reconsideration.

Mr. Speaker, I request a roll call.

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

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I rise today in support of the motion to reconsider and send this bill to a Committee of Conference. I was opposed to the bill when it came out nine to four, "Ought Not to Pass". If the Committee of Conference comes out with that, I will be voting the same way.

There were some questions raised in the debate last week, one about whether or not I was living in an apartment building and I required some heating assistance or insulation, whether or not I would be able to receive it and the answer was, yes. I think that has to be addressed.

Another concern came up as far as whether or not a camp would have to meet energy efficiency standards if the bill was passed. It wasn't the intention of the Minority Report but conceivably that could happen. That is why I think a Committee of Conference would be wise so they can address these concerns.

I would hope you would go along with the motion to reconsider so I could then move that it be referred to a Committee of Conference.

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 Chair recognizes the Representative from South Portland, Representative Kane.

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: I will be extraordinarily brief. I would like to respectfully disagree with my colleague, Representative Brown, on one point. He said that the issue on this vote is regulatory power given without constraint to agencies in state government. I don't think that is fair nor accurate. The issue before us right now is whether we are going to permit a few of our colleagues in this body and the other body, who have been on both sides of this issue and who have the most sophisticated knowledge of this issue, whether we are going to allow them another opportunity to sit down

and try to work out their differences for the benefit of all the people that we represent. I think that is the issue this time.

The SPEAKER: The pending question before the House is the motion of Representative Carter of Winslow that the House reconsider its action whereby it voted to adhere.

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

Representative JALBERT: Mr. Speaker, I wish to pair my vote with Representative Murray of Bangor. If he were present and voting, he would be voting yea and I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Carter of Winslow that the House reconsider its action whereby it voted to adhere. Those in favor will vote yes; those opposed will vote no.

68 having voted in the affirmative and 58 in the negative with 23 being absent and 2 paired, the motion did prevail.

(See Roll Call No. 273)

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

58 having voted in the affirmative and 64 in the negative, the motion did not prevail.

On motion of Representative Michaud of Medway, the House voted to Insist and ask for a Committee of Conference.

Sent up for concurrence.

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

On motion of Representative McGowan of Canaan, Adjourned until April 1, 1986 at nine o'clock in the morning.