

# MAINE STATE LEGISLATURE

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

OF THE  
STATE OF MAINE

**VOLUME II**

SECOND REGULAR SESSION  
April 3 - April 16, 1986  
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The House was called to order by the Speaker.  
Prayer by Reverend Moses P. Baker, Kennebec Valley Assembly of God, Augusta.  
The Journal of Wednesday, April 9, 1986 was read and accepted.  
Quorum call was held.

# PAPERS FROM THE SENATE

## Non-Concurrent Matter

Report of the Committee on Human Resources on Bill "An Act to Require Labeling of Coffees Decaffeinated with Methylene Chloride" (S.P. 808) (L.D. 2035) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Labeling of Coffees and Teas Decaffeinated with Methylene Chloride" (S.P. 911) (L.D. 2278).

Came from the Senate with the Bill and accompanying papers indefinitely postponed.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I move indefinite postponement of this bill and all accompanying papers.

It is appropriate this morning that we talk about decaffeinated coffee. This bill was heard, we had two work sessions, it was a Unanimous "Ought to Pass" and it was resting in the Senate when we found out that there was a problem and the problem was quite acute.

The problem simply was that the federal government decided that there was no risk, there was no residue left over from processing decaffeinated coffee when methylene chloride was used. We all know that if you use methylene chloride in hair spray, it could cause cancer but the FDA decided that if you ingested it through the process of decaffeinated coffee, there was no harm. Interestingly enough, the EPA, when processing and deciding on this problem, decided that there was probable cause of risk.

Unfortunately, we found out that it was unconstitutional if we proceeded because the state government could not supersede the federal government on this issue. It was a source of great frustration for our committee because we really did believe that the people in the State of Maine ought to know that there might be probable cause of risk in drinking decaffeinated coffee processed by this method. Our committee reluctantly decided that we would simply withdraw the bill because, if we decided to put a warning label on the coffee, that we might be forced to go to court. Not that we might lose, but simply because we, in the State of Maine, could not afford to go to court.

We are in the process right now of withdrawing the bill but the committee also recognized that we needed to tell our congressional delegation that we think it is very important that the FDA and the EPA get together and decide on one method of determining the health of the food that we ingest. We also decided that the Department of Human Services and the Department of Agriculture ought to get together here in the State of Maine and review some of the processes of food processing and pesticides and take a good look at what we are ingesting here in the

State of Maine.

We just wanted it on the Record that the people of the State of Maine (in 1986) believe that the FDA didn't do enough to protect the citizens of the State of Maine and we want it known.

Subsequently, the bill and all its accompanying papers were indefinitely postponed in concurrence.

## Non-Concurrent Matter

Bill "An Act to Exempt the Town of Hope from Liability for Certain Tax-acquired Property" (Emergency) (H.P. 1479) (L.D. 2081) which was passed to be engrossed in the House on April 8, 1986.

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

On motion of Representative Allen of Washington, the House voted to recede and concur.

## Non-Concurrent Matter

An Act to Provide Funds to Continue a Study of Bedrock Ground Water in Aroostook County (H.P. 1340) (L.D. 1877) (C. "A" H-511) which was passed to be enacted in the House on February 27, 1986.

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

The House voted to recede and concur.

## COMMUNICATIONS

The following Communication:

State of Maine  
EXECUTIVE DEPARTMENT  
State Planning Office

April 8, 1986

The Honorable Members  
112th Maine Legislature  
State House  
Augusta, Maine 04333

Dear Legislator:

I am very pleased to transmit to you this report on Uncut Timber Stands and Unique Alpine areas on State lands in Maine.

In 1983, the Maine Legislature directed the State Planning Office to inventory State-owned lands for forested areas that had never been harvested, as well as for unique alpine areas.

We have reviewed past studies and conducted

additional field work in the Mahoosuc Mountains, the Bigelow Preserve, Baxter State Park, and T.15 R.9, those public lands with higher elevations. We conclude that the State of Maine owns and manages for conservation the best areas of alpine vegetation in the State of Maine, but owns very few of the truly "old-growth" forests.

More detailed studies of State-owned alpine and old-growth areas, upon which this report is based, are available upon request.

The staff of the State Planning Office and the Critical Areas Program are most grateful for this opportunity to be of service to you and to the people of Maine.

With very best wishes,

Sincerely,

S/Richard E. Barringer

Was read and with accompanying report ordered placed on file.

The following Communication:

STATE OF MAINE  
ONE HUNDRED AND TWELFTH LEGISLATURE  
COMMITTEE ON LABOR

April 8, 1986

The Honorable John L. Martin  
Speaker of the House  
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Labor during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	19
Unanimous reports	15
Leave to Withdraw	6
Ought to Pass	2
Ought Not to Pass	2
Ought to Pass as Amended	1
Ought to Pass in New Draft	4
Divided reports	4

Respectfully submitted,

S/Senator Dennis Dutremble  
Senate Chair

S/Rep. Edith Beaulieu  
House Chair

Was read and ordered placed on file.

## REPORTS OF COMMITTEES

### Ought to Pass in New Draft

Representative ROLDE from the Committee on Audit and Program Review on Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (Emergency) (H.P. 1548) (L.D. 2187) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1670) (L.D. 2355)

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 ROLDE from the Committee on Audit and Program Review on Bill "An Act to Strengthen the Organization of Emergency Medical Services" (H.P. 1576) (L.D. 2223) reporting "Ought to Pass" in New Draft (H.P. 1671) (L.D. 2356)

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 MURRAY from the Committee on Business and Commerce on Bill "An Act to Correct Eligibility Requirements for Licensure as a Master Electrician" (Emergency) (H.P. 1547) (L.D. 2186) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1673) (L.D. 2358)

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 WEBSTER from the Committee on Utilities on Bill "An Act to Fairly Apportion the Cost of New Water Utility Services" (Emergency) (H.P. 1236) (L.D. 1745) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1674) (L.D. 2359)

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 BOUTILIER from the Committee on State Government on Bill "An Act to Authorize the Payment of Retention and Recruitment Stipends in

State Government" (H.P. 1446) (L.D. 2040) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1676) (L.D. 2362)

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 VOSE from the Committee on Utilities on Bill "An Act to Fairly Apportion the Cost of Water System Extensions and Expansions" (Emergency) (H.P. 1238) (L.D. 1747) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Fairly Apportion the Cost of Water System Extensions or Service Lines" (Emergency) (H.P. 1672) (L.D. 2357)

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 CASHMAN from the Committee on Taxation on Bill "An Act Enabling Towns to Establish Municipal Land Banks" (H.P. 1607) (L.D. 2266) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide for a Study of Municipal Land Banks" (H.P. 1675) (L.D. 2361)

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. 1583) (L.D. 2229) Bill "An Act to Amend the ATV Laws" (Emergency) Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-662)

(H.P. 1642) (L.D. 2320) Bill "An Act to Restore Retirement Credit to Employees Previously Receiving such Credit" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-663)

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.

#### SECOND READER

Bill "An Act Relating to Handling Fees and Unredeemed Deposits in the Returnable Container Law"

(H.P. 1667) (L.D. 2348)

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

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all of its accompanying papers be indefinitely postponed.

The bill before you is "An Act Relating to Handling Fees and Unredeemed Deposits in the Returnable Container Law." If you have looked at the papers that have appeared on your desk over the past few days, you will see that this bill is somewhat of a mixed bag. Actually, it represents a breakdown in the committee process because we have two bills. We have an amendment which is in effect a third bill -- we have four Reports, one "Ought Not to Pass."

This bill is a result of a study that was conducted last Summer and Fall by the Business and Commerce Committee, actually a subcommittee. After studying this issue for some time, that subcommittee couldn't even agree on the Report that they issued and it wasn't signed. The Report wasn't signed by the entire Business and Commerce Committee either. The reason is that we couldn't reach an agreement on the approach to be taken. Somehow this bill, L.D. 2348, worked its way onto the agenda and we considered it again at numerous hearings and work sessions. The result again is lack of total unanimity about how we should proceed.

If you would look at the bill, it creates an entirely new ratemaking process for a very simple question -- whether redemption centers should be paid more than the current two cents for bottles that are redeemed. You will see that the committee, or at least the majority of the committee, has decided that the committee should not deal with that question any more, probably out of desperation and they have thrown the whole thing to the Agriculture Department. The Agriculture Department came before us and they said, please don't give us this responsibility unless you also provide us with some guidelines. There are no guidelines except a ratemaking procedure is triggered if the cost of living increases sufficiently. We now have a "PUC" type activity going on in the Agriculture Department, if this bill passes.

I submit to you that is unnecessary and a waste of time. A vote against this bill is not a vote against redemption centers. There is no question that they are doing an effective job in their niche of the market. I should point out to you that redemption centers take back only twenty-five percent of all the bottles that are returned in the State of Maine. Seventy-five percent are returned through retailers, through mass retailers, such as the Hannaford Brothers and Shaw's Supermarkets and through the small retailers. Any money raised in this arena, approximately \$1.5 million that would be raised at wholesale if this bill were to be enacted, only \$375,000 would go to redemption centers and \$1,125,000 marked up would go to the retailers who haven't appeared in very strong support. This would be in effect manna from heaven for them, a free gift if you will.

As you have already seen from some of the material that has been distributed, Maine has the

highest handling fee in the country already.

Secondly, there is a division among the redemption centers as to whether they should even have an increase. We had testimony from redemption centers which said, we don't need an increase. You have evidence on your desks of a redemption center that is using this redeemable deposit as a marketing device offering discounts.

In my area, there has been an increase in redemption centers over the past few months, so I see no need for this bill at this time and I hope that you will vote to indefinitely postpone.

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

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I hope you will vote against the pending motion to indefinitely postpone this bill. Back in 1978 — some of you probably were here — the legislature made a promise to the merchants of the State of Maine. We told them, in answer to their opposition to handling all of these returnable bottles, that the legislation would include a handling fee and for those stores that did not have the storeroom or the capacity to handle the returnable bottles, we told them that we would also make a provision for redemption centers.

At that point in time, the legislature set the handling fee at one cent. It was very quickly found out that one cent was not enough to handle, sort, and package returnable bottles and cans. In 1979, the legislature increased that handling fee to two cents a can. This was to reimburse the grocer, the variety store person, or the redemption centers for their costs of handling, collecting, and packaging these cans and bottles. The fee has not been increased since that law was passed in 1979. It has remained since 1980 when the fee became effective.

For the last six years, it has remained at two cents. Anybody in any business whatsoever knows what has happened to overhead costs since 1979 and 1980. We have raised the minimum wages, taxes have gone up, heat, utilities, rent and yet, the only place the redemption centers or the merchants can turn to to increase their income to cover these increased overhead costs, is the legislature. They have tried on several occasions to get the legislature to increase the handling fee from two cents to three cents. The majority of the committee finally, at the very least said, let's at least give them a quarter of a cent per can. This amounts to six cents a twenty-four can or bottle case.

I think we have to fulfill a promise we made to the merchants back in 1979 and 1980 and to the public that redemption centers would be allowed to operate and that stores would be reimbursed to a very minimum for their costs of handling and storing these containers.

I would urge you to vote against this motion to kill this quarter of a cent increase in handling fees, the first one in six or seven years, and then go on to pass this bill.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I rise today in support of indefinite postponement of this bill and all the accompanying papers. Being actively a part of the select committee this past summer, an active part of going to the people affected by the passage of this bill, namely Pepsi-Cola that has a state-owned

operation in two very strong areas of this state, individually owned — Coca-Cola, Central Distributors — these areas that are being affected by the passage of this bill.

An example of the confusion that exists was handed out today. You look at that handout today that tries to address the non-returnable cans — look at that, tell me what it says. I have been trying to decipher it — does it say that the bottle bill is not working? Does it say that there are millions of dollars hidden out there that the state is entitled to? Who gives the state the authority to take this property as its own, because we decided not to turn in the can for redemption? I think there is a strong case here. By the way, there is a court challenge to the right of the state to take this property that is mine, I chose not to redeem it. The state will turn around and say that that money belongs to me.

I have had a very serious confrontation over abandoned property already that the state is not addressing it as it should.

I urge you to give us the support because we worked diligently on this. I would be the first one to accept the increased fee if they showed there was an actual need for it at this time.

Representative Brown of Livermore Falls requested a roll call.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to delay this debate much longer but a lot of time was spent on this, over a year. I am not too happy with the results. I would just like to go over a few things here.

We are looking at a bill that is going to increase the cost to the consumer of all returnable containers for beverages in the State of Maine. A few facts in this case are that the two percent handling fee that Maine has is the highest in the country. There are other states that have no handling fee at all. I will say that in those states there are no redemption centers. The cost of handling is handled directly through competitive retail pricing. I personally feel it is the fairer way to go.

Unfortunately in Maine, we are in competition with New Hampshire which has no redemption fee for returnable containers. Our market is being flooded. We are not competitive with them because of things like our premium tax. I don't have a problem with that but it increased the cost of alcoholic beverages in the State of Maine. Our redemption handling fee increased the cost of non-alcoholic beverages also.

In the next few days, we are going to be looking at a sales tax on vending machines and a lot of beverages are sold through vending machines. It is going to be a minimum of a nickel increase.

In some cases, the more efficient redemption centers are going to receive a windfall profit on this because it is going to be an increase in the bottom line. In some cases, the more efficient, well run management outfits in Portland are going to have an \$80,000 increase if it goes to the cent that they wanted initially, albeit they are asking for a quarter cent now, we don't know what the increase is going to be over the years.

I guess the basic question we are asking ourselves here is to what level do we support a

business that we as a legislature enacted. The highly efficient RSVP Redemption Centers in Portland, for example, have a retail outlet. They seem to be doing okay but do we support through the cost of all the consumers in the State of Maine a lower level redemption center that may be operating out of a residential house or in their garage? Some of them are doing that around the state. I feel bad for these people, they cannot do the volume in the rural areas, they do provide a service, but to what level do we support this activity?

There are some other states, as I said, that do not have a handling fee at all and this is two cents on a nickel container — that is forty percent for handling that. We started in 1978 with a one cent handling fee, and it was mentioned that perhaps the fairest way to handle it is through a consumer price index to judge the increase. Through the high consumer price index of 1979, '80, and '81, if we started with one cent then (which the legislature thought was fair at enactment) it would only be 1.83 cents now, which is below the fee that we have statutorily set of two cents.

I guess what bothers me the most is something that overrides my philosophy when I take a position on these issues is that Maine is the forty-seventh lowest per capita income in the whole United States. Yet consistently, over the last decade, we have been in the top ten taxed per capita in the United States. That spread is something that we all want to narrow and I don't think this legislation is going to do anything but make that spread even more. I urge you to vote for indefinite postponement of this bill.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: You know it is odd we can pass a million dollars through here, five million dollars, and we don't even blink an eye. We come up to a quarter of a cent and we are all upset over it.

Let me tell you something about returning bottles and empties. The grocery industry, which I was in for 30 years, has no interest in handling empties. They don't want to do it, they never wanted to do it, they fought the bottle law, the redemption law, they did everything that they could. I was one of the people that supported it. We wanted to keep our streets and our highways clean and we are doing a good job with it. I know you people hate to stand in line in a grocery store because it is a secondary thing to them when you bring your bottles in. They are interested in having you buy groceries, they don't want to have to handle your empties, you have to stand in line, you have to ring a bell or do something else.

The redemption centers are a good thing for this state. It takes the dirty bottles, the empties out of the stores, they are packed into the backroom where they don't want them, it gets rid of them and the redemption centers do a good job.

I live in Cumberland, as you know, and in Falmouth where there are two large grocery chains, Hannaford and Shaw's, they just closed the redemption center because they couldn't make enough money on it. I think it is important to keep these redemption centers open and I hope you will defeat this bill and let them have their quarter of a cent because the Agriculture Department can certainly set up rules and regulations to handle it. It is a simple thing,

let's vote to defeat this motion that is on the floor.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: I would briefly like to reiterate much of what Representative Dillenback just said. I think it is important to point out that the support of the bottle bill has been overwhelming, we have seen that over the past years as it has been reaffirmed in a couple of different referendums. It is important to point out that the redemption centers have become a very important component of the efficiency of that entire system. Reports say that up to a third of all returns actually do go through the redemption centers.

The other thing I would like to point out is that, after the beginning of most of these redemption centers, it is the competition and the convenience to the consumer that has made the supermarkets open themselves up to receiving bottles. Many of us remember the times right after the bottle bill was adopted that many of the supermarkets and stores would only accept bottles at certain hours and certain conditions and it was the development of the redemption centers that provided the competition which allows most of the consumers to return the bottles at any time.

I think it is very important that these redemption centers continue. We heard from several centers who came before us saying that, because of the fact there hasn't been an increase in six to seven years, they haven't been able to efficiently (even with an efficient operation) make a profit at all. Most of those that did come before us who are making a profit, and there were only two or three in the entire state, were those that also had retail outlets and most of their profit was coming from the retail sales.

Many of the redemption centers around the state do not have that retail component to their business.

I would urge you to defeat the present motion so that the quarter of a cent increase does go through and the redemption centers can continue to operate and provide the continued success of the bottle bill itself.

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

Representative SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: I usually don't get up and speak on matters that haven't come before our committee, but in this case, I wanted to make an exception. I, too, am a strong supporter of redemption centers, but yet at the same time, I support the motion from the gentleman from Orrington that this bill should be indefinitely postponed.

I used to manage a local redemption center back when this law first took effect. I think it was back in 1978. I worked there and managed that for a year and a half or a couple of years.

I think what we need to keep these redemption centers going is a provision just for redemption centers and not one that at the same time will increase the handling fee for the local stores, the local mom and pop stores. I don't think we have to give a windfall to Hannaford Brothers and Shaw's.

It was mentioned to you earlier that 25 percent of all the bottles and cans that are brought back are returned to local redemption centers — of that 25 percent, I wonder what the percentage is that go to

the stores first and then go on to local redemption centers, which is what happens in my local area. Our local redemption center goes into the stores and picks up the bottles and cans at the stores as well as allowing transient business off the street. They go in there on a daily basis, the stores only have to sort them by prices, they don't have to sort them by brands. It saves these stores a lot of time and effort. It alleviates the problems as far as storage goes and things like that.

What is going to happen if you raise this fee? The stores are going to say, we are going to make too much money now and we can't pass that up so we are going to have to take this directly back to the distributor and bypass the local redemption centers. What will happen in my case is that it is going to hurt my local redemption center because they are not going to get the volume that they have now. I don't know how many local redemption centers that that situation applies to but it certainly does in my case. I urge you to vote yes on the pending motion.

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

Representative BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: In relation to the last speaker's remarks, we have posed those questions to the redemption centers, they do not see that as a threat. Their working relationship with stores is a very important part of the working of the bottle bill.

We have also tried to work out ways that redemption centers would be reimbursed in a different way than the redemption in a store -- that does not pass legal muster.

It was alluded to that we have three or four reports and that is somewhat true but you really only have two reports when it comes to a quarter cent, "Ought to Pass" and "Ought Not to Pass." For the first time in the eight years that I have been here, I am on the "Ought to Pass" side of an increase in the handling fee. The reason is that I have been convinced that because we have given increases in the past, a long time in the past, when I was against it, the redemption centers have become a more integral part of the redemption process. I can't imagine 25 percent of those bottles being dumped back on the big stores and especially on the little stores. There are so many more brands today of various kinds, redemption centers are the only place that will take all the brands, no matter where you have purchased them.

It is my encouragement that you defeat this motion and go with the Majority Report of our committee.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: You Representatives that are in the exodus area and that exodus area represents the boundary of New Hampshire and Maine, be aware that what is happening to you now will be compounded again because this means an additional five cents to the cost of every returnable container. If there is an exodus now, just address what could happen with the additional five cents.

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 Baker of Orrington that L.D. 2348 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

73 having voted in the affirmative and 63 in the negative with 15 being absent, the motion did prevail.

Sent up for concurrence.

(See Roll Call No. 281)

## PASSED TO BE ENACTED

### Emergency Measure

An Act to Provide for Development of a State Low-level Radioactive Waste Facility if Necessary (S.P. 892) (L.D. 2242)

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

## ENACTOR

### Emergency Measure

## LATER TODAY ASSIGNED

An Act Relating to the Sales of Extended Cable Television Services (H.P. 1649) (L.D. 2326)

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

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

## ENACTOR

### Emergency Measure

## LATER TODAY ASSIGNED

RESOLVE, Creating a Maine Commission to Commemorate the Bicentennial of the United States Constitution (S.P. 813) (L.D. 2045) (S. "A" S-459; C. "A" S-443)

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

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



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ENACTOR

Emergency Measure

LATER TODAY ASSIGNED

RESOLVE, Authorizing the Commissioner of Transportation to Issue Temporary Experimental Vehicle Permits on a Limited Basis under Strictly Controlled Conditions (S.P. 927) (L.D. 2314)

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

On motion of Representative Strout of Corinth, tabled pending final passage and later today assigned.

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FINALLY PASSED

Emergency Measure

RESOLVE, to Establish a Maine Commission to Examine Chemical Testing of Employees (S.P. 934) (L.D. 2343)

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. 113 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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FINALLY PASSED

Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1986 (H.P. 1657) (L.D. 2335)

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. 115 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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FINALLY PASSED

Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1986 (H.P. 1658) (L.D. 2336)

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 Resolve was finally passed, signed by the Speaker and sent to the Senate.

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PASSED TO BE ENACTED

An Act to Authorize Temporary Licenses to Operate Family Foster Homes (S.P. 885) (L.D. 2230)

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.

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ENACTOR

LATER TODAY ASSIGNED

An Act to Establish a Piscataquis County Budget Committee (S.P. 936) (L.D. 2345)

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

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

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PASSED TO BE ENACTED

An Act to Create the Maine Liquor Liability Act (H.P. 1478) (L.D. 2080) (C. "A" H-635)

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.

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ENACTOR

LATER TODAY ASSIGNED

An Act Providing for the 1986 Amendments to the Finance Authority of Maine Act (H.P. 1489) (L.D. 2105) (H. "A" H-638 to C. "A" H-613)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and later today assigned.

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PASSED TO BE ENACTED

An Act Relating to Liquor Excise Taxes and Freight Rates and Making Other Changes in the Liquor Laws (H.P. 1646) (L.D. 2323) (S. "A" S-461)

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.

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ENACTOR

LATER TODAY ASSIGNED

An Act to Provide for a Study of Excise Taxes on Watercraft (H.P. 1648) (L.D. 2325)

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

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

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ENACTOR

LATER TODAY ASSIGNED

An Act to Permit Transmission of Electricity Between Affiliated Industrial Enterprises and to Study Power Purchases and Other Aspects of Transmission of Electrical Energy through the State (H.P. 1656) (L.D. 2327)

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

On motion of Representative Vose of Eastport, tabled pending passage to be enacted and later today assigned.

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ENACTOR

LATER TODAY ASSIGNED

An Act to Establish a Commission to Examine the Availability, Quality and Delivery of Services Provided to Children with Special Needs (H.P. 1652) (L.D. 2330)

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

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

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ENACTOR

LATER TODAY ASSIGNED

An Act to Authorize a Bond Issue for Androscoggin County to Raise Funds for Renovations to the County Building and County Jail (H.P. 1660) (L.D. 2338)

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

On motion of Representative Nadeau of Lewiston, tabled pending passage to be enacted and later today assigned.

assigned.

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PASSED TO BE ENACTED

As Amended

An Act to Enhance the Sound Use and Management of Maine's Coastal Resources (S.P. 855) (L.D. 2167) (C. "A" S-456)

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

On motion of Representative Michaud of Medway, under suspension of the rules, the House reconsidered its action whereby L.D. 2167 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-665) and moved its adoption.

House Amendment "A" (H-665) was read by the Clerk and adopted.

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

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ENACTOR

LATER TODAY ASSIGNED

RESOLVE, Authorizing the Commissioner of Finance and Administration to Convey, by Sale, the Title and Interest of the State in Land Located in Windham, County of Cumberland (S.P. 923) (L.D. 2300) (H. "A" H-643)

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

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

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FINALLY PASSED

RESOLVE, to Protect Against Property Tax Losses Resulting from Transfers under Provisions of Certain Land Trust Transfers (H.P. 1633) (L.D. 2305)

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

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ORDERS OF THE DAY

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

The Chair laid before the House the first matter

of unfinished business:

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-656) - Minority (5) "Ought Not to Pass" - Committee on Business and Commerce on Bill "An Act to Establish the Maine Workers' Compensation Reinsurance Association" (H.P. 1560) (L.D. 2199)

TABLED - April 9, 1986 (Till Later Today) by Representative BRANNIGAN of Portland.

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

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the Majority "Ought to Pass" Report on this bill.

The purpose of this bill — actually it is a study committee and, if you refer to Page 656, it is an "Act to Establish the Workers' Compensation Reinsurance Study Commission." It calls for a study commission of ten persons, five to be appointed by the President of the Senate and five to be appointed by the Speaker of the House to study whether Maine should establish in effect an insurance business.

There is one other state in the country that has a reinsurance program and that is the State of Minnesota. It is our understanding that they have had some problems with that program. I submit to you that we don't need to hire ten people and we don't need to spend \$7500 to find out what has happened in the State of Minnesota.

We had a complete study of the Workers' Compensation situation about two or three years ago. This legislature, in the last session of the 112th, passed a number of bills that came out of that study. The reinsurance question was an item that was explored by that study and it did not come to the floor of the House last year and I submit to you that it is unnecessary for this issue to be continued before the House today. I would hope that you would vote against the motion.

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: I hope you will support the Majority "Ought to Pass" Report on this study of reinsurance association for Maine's Workers' Compensation situation. I don't believe we have had a complete study, otherwise I wouldn't be supporting this. We have had a number of studies in this House. The Speaker of this House has, in looking at the overall problems with the first study and narrowing down to the Menario Commission and we see this as an important part — especially an important part right now — to take a look at the reinsurance situation and the area of Workers' Compensation. We should do this for self-insurers and there are many — both groups, individuals and brothers. There is a problem of getting reinsurance, being able to cover the great and catastrophic losses which we must have covered. We have to take a look, I think, to see whether the state should become more involved. It would not be state funds, it would not be state money, it would be an association pulled together by the state. That is what the study is for. The majority of this committee says that this is the time

to look at this when we have a great need and a great possibility to improve the Workers' Compensation insurance side as we have been improving it over the last few years.

I hope you join us.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I am not against the concept. What I am against is the \$7500 that was cut back from \$15,000 and maybe we ought to swing a deal and bring it down to zero.

I think, in my honest opinion and from what I have heard in my brief stay in this legislature, is that there is adequate statistical data available already in the files that we should address. If, after getting all the information from the famous Menario Report and the existing information, then perhaps we ought to readdress it but, at this time, I think honestly that there is enough information available to address this idea of the association.

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

Representative TELOW: Mr. Speaker, Ladies and Gentlemen of the House: I was on the Speaker's Select Committee on Workers' Comp. We had many meetings during the Fall trying to arrive at what we call a good solution to Workers' Comp. You know in the beginning as with anything, there are always some problems that may arise later on. I knew in looking at the report that I was the only Republican to be on the opposite side. I, because I had been on the Speaker's committee, felt that it was necessary that we have a study committee to review this and to try to correct anything that could be wrong. So, at this time, I hope that you will go along with us on this bill.

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

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I would move the indefinite postponement of this bill and all its accompanying papers.

As you have heard from prior testimony, all the bill does now is create a study commission and that is to be funded with a price tag of \$7500. The original request was for \$15,000 and the committee amended it to \$7500. I personally think that what the committee could study or come up with could be gathered by someone making about four or five telephone calls. I don't think a study committee is necessary and I certainly don't think we need to spend \$7500.

I would ask for a division on my motion to indefinitely postpone this bill.

Representative Telow of Lewiston requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative of Wilton, Representative Armstrong, that L.D. 2199 and all its accompanying papers be indefinitely postponed.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: I would hope you would think carefully before voting on this particular motion. I would just explain briefly that reinsurance is a very important component of Workers' Comp Insurance. Reinsurance is that amount of coverage that an insurance company will purchase above a certain amount so that the insurance company who is providing Workers' Comp Insurance doesn't want to cover all of its potential liability. It will purchase above a certain amount from another reinsurer, another company, it doesn't necessarily have to be an insurance company but most insurance companies, I believe all insurance companies, that do provide Workers' Comp Insurance purchase this reinsurance. Over the last couple of years, especially the entire reinsurance market, has become very tight, not only in Workers' Comp Insurance, but obviously in all liability insurance as we are all aware of.

The original bill sought to establish a reinsurance association as you have been told. None of the committee was ready at that point to take that large a step because none of us were familiar enough with the issue, none of us knew if that would work.

This particular bill, as it now stands, simply wants to take a look at what the reinsurance market is, specifically in the Workers' Comp area, what potentially could be done to open up this very difficult and tight reinsurance market. It is an important step because, as I said at the beginning, reinsurance is a very important part of the overall cost of Workers' Compensation Insurance to begin with.

I would hope that you would support the majority of the committee in developing this study commission so that we know what we are going to be talking about when issues such as reinsurance come before us in the future. It is a major component of the overall Workers' Comp costs in this state, which we all know are too high. I believe it is worthy of our establishing a commission to look over what the issues truly are.

I would urge you to oppose the pending motion to indefinitely postpone and support the majority of the committee.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Wilton, Representative Armstrong, that L.D. 2199 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

59 having voted in the affirmative and 82 in the negative with 10 being absent, the motion to indefinitely postpone did not prevail.

(See Roll Call No. 282)

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

Committee Amendment "A" (H-656) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

The Chair laid before the House the second matter of unfinished business:

An Act to Amend the Drug Enforcement Law (S.P.

797) (L.D. 2004) (C. "A" S-440)

TABLED - April 9, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

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 third matter of unfinished business:

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-650) - Minority (4) "Ought Not to Pass" - Committee on Taxation on Bill "An Act to Improve Compliance with Maine Tax Laws" (H.P. 1511) (L.D. 2131)

TABLED - April 9, 1986 (Till Later Today) by Representative CASHMAN of Old Town.

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

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: What this bill attempts to do is address the collection problems that the Bureau of Taxation has with what is fortunately a small segment of our taxpaying population. Most Maine citizens are hard working, honest people and they pay their taxes. Unfortunately some don't, and for those of us who do pay our taxes, we pay more in taxes to make up for the people who refuse to.

What this bill does is it gives the Bureau of Taxation the authority to recommend to the various licensing agencies that professional licenses not be renewed for people who have refused to file an income tax. Let me state that again so that I make it clear. It is not for people who aren't paying their taxes necessarily or people who are struggling, having a cash flow problem and they are on a payment plan with the Bureau of Taxation and they are making a conscience effort to pay their taxes -- we are talking about people who flatly refuse to file.

The way that this would work is that, by cross-reference of Social Security numbers, the bureau would identify people who are licensed to do business of one type or another in this state who haven't filed a tax return. Using myself as an example, a licensed realtor, they would notify me that it had come to their attention that I hadn't filed an income tax return. If I refused or didn't bother to respond to that notification, they would follow that up with another notification, that if I continued to refuse to file or to explain to the bureau why I haven't filed or don't need to file, that they will notify the Real Estate Commission that, on renewal of my license, the Commission should consider nonrenewal because I am not filing my income taxes.

I don't think it is unreasonable to expect the people, like myself, who are licensed by the state to do business in this state, and in effect, given a franchise by the state to operate, to file an income tax return. I don't think that is unreasonable. The first argument against this bill that you will hear today is that it provides for unequal treatment because people who aren't licensed by the state obviously can't have a license pulled for not

filing. I would submit to you that this bill would help to even out what is already unequal treatment.

The people in my district that work at James River Corp. or at Kagan-Lown pay their taxes. It is deducted from their paycheck every week. They don't have the option that self-employed realtors have like I do -- I file a quarterly return. They have to pay their taxes. They don't have any choice. What we are doing here is evening out the playing field a little bit by saying, those who have the option not to file because they are self-employed, aren't going to be able to do business in this state if they don't file.

The other argument against this is, that if you pull the license of a professional person for not filing their income taxes, their employees will suffer as well. That's true. I feel sorry for anyone who loses their job because their employer didn't file their taxes and lost his license to do business. However, if that same employer under today's law refuses to file, they are identified by the Office of Taxation, prosecuted, and go to jail -- the employees lose their job under that scenario as well. So if you want to carry that logic to its ultimate conclusion, I guess you could just decriminalize the whole offense of non-filing of income taxes so that these people can continue to operate for the sake of their employees. I don't think we want to do that. I don't think that this House or this state ought to be interested in allowing people to do business who just thumb their nose at the state and say, I am not going to file an income tax return.

I hope you will support the Majority Report that has been moved here and send this bill on to the other body.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Men and Women of the House: I share the concerns that have been expressed by the Representative from Old Town, Representative Cashman over the frustration that the State of Maine is faced with when people fail to file their income tax returns. I would like to praise the intentions of the sponsors of this bill to try and address this problem. I think the question here is one of government and I see two serious problems with this bill.

First of all, the remedies for people who are violating the laws should be with the courts. I think it would be an unusual precedent for us to establish this kind of power with the Bureau of Taxation, a position within the Executive Department, rather than leaving the powers with the courts the way they should be. The Representative from Old Town is correct in saying that people who fail to meet the laws of the State of Maine ought to be in jail rather than having their licenses taken away from them.

The second problem with this bill is that it really does establish two different classes of tax payers, people who hold professional licenses in the State of Maine and everyone else. Not only is that not good government, it is just plain unfair. Right now in the State of Maine we have forty-six different classes of license holders, 70,000 people approximately holding professional licenses in the state. Many of you are familiar with what kinds of professions these relate to but it is a very different assortment of people we are talking about

-- arborists, cosmetologists, podiatrists, chiropractors, engineers, architects, barbers, electricians and plumbers. I really don't think that it is fair to set up these people as different kinds of citizens in the State of Maine than all the rest of us.

I hope that you will vote against this measure and Mr. Speaker, I ask for a division.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair to the gentleman from Old Town.

What if the taxes owed are in dispute with the Bureau of Taxation and the matter has not been resolved at the time that a person has to renew his license, what then? I see in the bill there is no provision that would be held in abeyance until such time as the matter would be resolved.

The SPEAKER: The Representative from Lisbon, Representative Jalbert, has posed a question through the Chair to the Representative from Old Town, Representative Cashman, who may respond if he so desires.

The Chair recognizes that Representative.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: That very eventuality was discussed in committee, Representative Jalbert, and that is why the bill has been amended.

The original bill dealt with people who refused to file and people who were not paying. The concern of the committee was that somebody's license to do business as a realtor, a podiatrist, or a barber, whatever, might be pulled while they were contesting their tax assessment so we changed the bill. If you are in a running dispute with the Bureau of Taxation about the amount of taxes you owe, but you have filed your return, this bill does not affect you. This bill only affects those people who say to the State in effect, I know you have an income tax law, I know I am subject to it but I am not going to even bother to acknowledge it, I am not going to file a tax return.

While I am on my feet Mr. Speaker, I would request a roll call on this bill because I would like to look at it.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I have been waiting patiently to debate this bill. As far as this bill not being good government, I think this is an excellent bill to result in good government. We are not talking about arborists and plumbers and lawyers, we are talking about individuals who refuse to even file a tax return. I ask you ladies and gentlemen of this House, this state provides those people with a professional license and allows them to have the privilege to operate under that professional license and they refuse to even comply with our tax laws and file a tax return. I say to you, it is very appropriate for this state to withhold their license from renewal.

We already have two systems or two sets of taxpayers in this state. We have those individuals as Representative Cashman said, who every week have their taxes withheld from their paycheck. Then there are those other people, those self-employed individuals, who have the luxury of only having to pay possibly quarterly estimated tax payments. We

already have an unequal system. There are 400,000 individuals in this state who have no choice, who have their taxes withheld each and every week. Now I ask you, are we going to vote against this bill simply because there are those that feel we don't want to set up an unequal system in our tax laws -- I tell you the system is already unequal and it is unfairly balanced against the working men and women of this state.

We are allowing individuals, professionals, who are in direct competition with other professionals who are paying their taxes, to avoid paying their taxes and, in fact, be able to operate at a competitive advantage.

I ask this House to support this bill, this is good legislation. At one point in Committee -- I can't quite understand what happened -- it was nearly a Unanimous Report, in fact all three members of the other body do support the bill but something is going on here and I can't quite put my finger on it. I would like this House to go along and pass this bill.

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

Representative ZIRNKILTON: Mr. Speaker, Men and Women of the House: I agree with just about everything the proponents of this bill have said. There is only one problem. If this bill passes, it gives the Bureau of Taxation of the State of Maine the power to pronounce someone guilty before they have had their day in court. I don't know about you, but if, in this country, someone is still innocent until proven guilty, then you will vote against this bill. This bill takes that power away from the individual and gives it to the Bureau of Taxation -- no time in court, no nothing. If you fail to file, the Bureau of Taxation has the right to take your license away, regardless of what you do and regardless of whether or not you have had your day in court. That, in my opinion, is not setting good precedent.

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 the Representative from Old Town, Representative Cashman, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

99 having voted in the affirmative and 40 in the negative with 12 being absent, the Majority "Ought to Pass" Report was accepted, the bill was read once.

Committee Amendment "A" (H-650) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

(See Roll Call No. 283)

# BILL HELD

## LATER TODAY ASSIGNED

Bill "An Act to Establish Policies Governing Medical Malpractice Claims" (S.P. 773) (L.D. 1945) -- In Senate, Majority "Ought Not to Pass" Report of the Committee on Judiciary read and accepted. -- In House, Minority "Ought to Pass" in New Draft Report of the Committee on Judiciary read and accepted and the New Draft (S.P. 940) (L.D. 2354) passed to be engrossed in non-concurrence. HELD at the request of Representative ALLEN of Washington.

Representative Allen of Washington moved that the House reconsider its action whereby L.D. 1945 was passed to be engrossed.

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: An Act to Establish a Piscataquis County Budget Committee (S.P. 936) (L.D. 2345) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter: An Act Relating to the Sales of Extended Cable Television Services (H.P. 1649) (L.D. 2326) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Cashman of Old Town, under suspension of the rules, the House reconsidered its action whereby L.D. 2326 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-673) and moved its adoption.

House Amendment "A" (H-673) was read by the Clerk and adopted.

Subsequently, the bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: RESOLVE, Authorizing the Commissioner of Finance and Administration to Convey, by Sale, the Title and Interest of the State in Land Located in Windham, County of Cumberland (S.P. 923) (L.D. 2300) (H. "A" H-643) which was tabled earlier and later today assigned pending final passage.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 2300 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-669) and moved its adoption.

House Amendment "B" (H-669) was read by the Clerk.  
The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: This is merely a technical amendment correcting the metes and bounds that were listed in the original L.D.

Subsequently, House Amendment "B" was adopted.

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

The Chair laid before the House the following matter: An Act to Permit Transmission of Electricity Between Affiliated Industrial Enterprises and to Study Power Purchases and Other Aspects of Transmission of Electrical Energy through the State (H.P. 1656) (L.D. 2327) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative McGowan of Canaan, under suspension of the rules, the House reconsidered its action whereby L.D. 2327 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-668) and moved its adoption.

House Amendment "A" (H-668) was read by the Clerk.  
The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: The amendment that was just put on this particular bill was a necessary amendment because an appropriation is necessary for the study order that was in the bill itself. The amount is something like \$3500 -- that is the reason for the amendment.

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

Representative CONNOLLY: Mr. Speaker and Members of the House: I would like to pose a question.

I don't have the amendment in front of me but is that the only thing that this amendment does is put a fiscal note on the bill?

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

The Chair recognizes the Representative from Canaan, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the Representative's question is, yes.

Subsequently, House Amendment "A" was adopted.

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

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 the sound of the gong.

(After Recess)

The House was called to order by the Speaker.

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 SPROUL from the Committee on State Government on Bill "An Act to Create the Agricultural Suppliers Insurance Program" (Emergency) (H.P. 1653) (L.D. 2331) 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 CASHMAN from the Committee on Taxation on Bill "An Act Concerning Property Tax Assessment and Appeals" (H.P. 1530) (L.D. 2165) reporting "Ought to Pass" in New Draft (H.P. 1678) (L.D. 2364)

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 HICKEY from the Committee on Aging, Retirement and Veterans on Bill "An Act Relating to Retirement Benefits for Confidential State Employees" (H.P. 1558) (L.D. 2197) reporting "Ought to Pass" in New Draft (H.P. 1680) (L.D. 2366)

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 PAUL from the Committee on Legal Affairs on Bill "An Act to Authorize Police Officers to Prosecute Minor Violations in the Enforcement of Municipal Ordinances" (H.P. 1587) (L.D. 2236) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Authorize Certified Law

Enforcement Officers to Prosecute Violations of Municipal Ordinances" (H.P. 1677) (L.D. 2363)

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 BAKER from the Committee on Utilities on Bill "An Act Increasing the Indebtedness of the Dover and Foxcroft Water District" (Emergency) (H.P. 1177) (L.D. 1672) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Consolidate the Charter and Increase the Debt Limit of the Dover and Foxcroft Water District" (Emergency) (H.P. 1679) (L.D. 2365)

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-664) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Legislative Veto over Agency Rules (H.P. 1579) (L.D. 2228)

Signed:

Senator: HICHENS of York

Representatives: COTE of Auburn  
BOUTILIER of Lewiston  
DESCOTEAUX of Biddeford  
LACROIX of Oakland  
HICHBORN of LaGrange  
GWADOSKY of Fairfield  
DILLENBACK of Cumberland  
WENTWORTH of Wells  
SPOUL of Augusta  
NADEAU of Saco

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

Signed:

Senators: KERRY of York  
ANDREWS of Cumberland

Reports were read.

On motion of Representative Gwadosky of Fairfield, the House accepted the Majority "Ought to Pass" Report, the Resolution was read once.

Committee Amendment "A" (H-664) was read by the Clerk and adopted and the Resolution assigned for

second reading later in today's session.

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

PAPERS FROM THE SENATE

Divided Report

LATER TODAY ASSIGNED

Majority Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act to Improve the Marketing of Milk in Maine" (S.P. 856) (L.D. 2168)

Signed:

Senator: CARPENTER of Aroostook

Representatives: TARDY of Palmyra  
LORD of Waterboro  
WHITCOMB of Waldo  
DAGGETT of Manchester  
PARENT of Benton  
SHERBURNE of Dexter  
AYER of Caribou  
BRAGG of Sidney  
MICHAEL of Auburn

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (S.P. 939) (L.D. 2352) on same Bill.

Signed:

Senators: ERWIN of Oxford  
BLACK of Cumberland

Representative: MCCOLLISTER of Canton

Came from the Senate with the Bill and accompanying papers indefinitely postponed.

Reports were read.

Representative Tardy of Palmyra moved that the House accept the Majority "Ought Not to Pass" Report.

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

Non-Concurrent 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 passed to be engrossed as amended by House Amendment "A" (H-625) in the House on March 31, 1986.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-466) and House Amendment "A" (H-625) in non-concurrence.

The House voted to recede and concur.



REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative COOPER from the Committee on Judiciary on Bill "An Act to Permit a Guilty but Mentally Ill Verdict in a Criminal Case" (H.P. 1467) (L.D. 2069) reporting "Leave to Withdraw"

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

BILL HELD

LATER TODAY ASSIGNED

The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, is the House in possession of Bill "An Act Relating to Handling Fees and Unredeemed Deposits in the Returnable Container Law" (Emergency) (H.P. 1492) (L.D. 2103)?

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

Representative Gwadosky of Fairfield moved that the House reconsider its action whereby L.D. 2103 was indefinitely postponed.

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

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

REPORTS OF COMMITTEES

Ought to Pass

Pursuant to Joint Order (H.P. 1316)

Representative MURPHY from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1986 and Authorizing the County to Raise up to \$700,000 for Jail Renovations (Emergency) (H.P. 1682) (L.D. 2369) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1316)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Improve Compliance with Maine Tax Laws" (H.P. 1511) (L.D. 2131) (C. "A" H-650)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended, and sent up for concurrence.

The Chair laid before the House the following item: RESOLVE, Authorizing the Commissioner of Transportation to Issue Temporary Experimental Vehicle Permits on a Limited Basis under Strictly Controlled Conditions (S.P. 927) (L.D. 2314) which was tabled earlier in the day and later today assigned pending final passage.

On motion of Representative Theriault of Fort Kent, under suspension of the rules, the House reconsidered its action whereby (L.D. 2314) was passed to be engrossed.

The same Representative offered House Amendment "A" (H-672) and moved its adoption.

House Amendment "A" (H-672) was read by the Clerk. The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative THERIAULT: Mr. Speaker, Members of the House: This rather lengthy amendment does nothing more than change the original bill, which was presented to us as a Resolve. It changes it to an Act. That is the only thing this amendment does.

Subsequently, 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 Providing for the 1986 Amendments to the Finance Authority of Maine Act (H.P. 1489) (L.D. 2105) (H. "A" H-638 to C. "A" H-613) 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: An Act to Provide for a Study of Excise Taxes on Watercraft (H.P. 1648) (L.D. 2325) 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 following items appearing on Supplement No. 4 were taken up out of order by unanimous consent:

CONSENT CALENDAR

SECOND DAY

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

(H.P. 1642) (L.D. 2320) Bill "An Act to Restore Retirement Credit to Employees Previously Receiving such Credit" (C. "A" H-663)

(H.P. 1583) (L.D. 2229) Bill "An Act to Amend the ATV Laws" (Emergency) (C. "A" H-662)

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

SECOND READER

LATER TODAY ASSIGNED

Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (Emergency) (H.P. 1670) (L.D. 2355)

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

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

PASSED TO BE ENGROSSED

Bill "An Act to Strengthen the Organization of Emergency Medical Services" (H.P. 1671) (L.D. 2356)

Bill "An Act to Fairly Apportion the Cost of New Water Utility Services" (Emergency) (H.P. 1674) (L.D. 2359)

Bill "An Act to Correct Eligibility Requirements for Licensure as a Master Electrician" (Emergency) (H.P. 1673) (L.D. 2358)

Bill "An Act to Fairly Apportion the Cost of Water System Extensions or Service Lines" (Emergency) (H.P. 1672) (L.D. 2357)

Bill "An Act to Authorize the Payment of Retention and Recruitment Stipends in State Government" (Emergency) (H.P. 1676) (L.D. 2362)

Bill "An Act to Provide for a Study of Municipal Land Banks" (H.P. 1675) (L.D. 2361)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Establish the Maine Workers' Compensation Reinsurance Association" (H.P. 1560) (L.D. 2199) (C. "A" H-656)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act Relating to Handling Fees and Unredeemed Deposits in the Returnable Container Law" (Emergency) (H.P. 1492) (L.D. 2103) which was tabled earlier in the day and later today assigned pending the motion of Representative Gwadosky of Fairfield that the House reconsider its action whereby L.D. 2103 was indefinitely postponed.

Representative Baker of Orrington requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Gwadosky of Fairfield that the House reconsider its action whereby L.D. 2103 was indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

67 having voted in the affirmative and 57 in the negative with 27 being absent, the motion did prevail.

(See Roll Call No. 284)

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: I wish you would vote against the indefinite postponement of this measure. This is actually a small businessman's bill. This is your constituents bill. This is a consumers bill. If you stop and think about it for three or four seconds, I don't think we, in this body, are doing our constituents any big favor by letting Hannaford's, Shaw's and Cottle's monopolize this business. Earlier this morning, we were talking in terms of about 25 percent and 75 percent -- well, as the Representative from Portland indicated a couple of times, where would this 25 percent go if they didn't have redemption centers?

I was talking with a couple of people on a one on one basis earlier and said basically, it is a smelly job, literally, it is a mindless job, but if this bottle bill concept is going to work, and I think we all want it to work, then somebody has got to do this job. Somebody has to sort out the bottles and cans and put them in piles to go to the appropriate distributor. This kind of detail has to be attended to.

What we are coming down to is the little entrepreneurs and I just look at the Representative from Canaan as one example. These small business people don't have the capital and consequently don't have the space and the other facilities to store these bottles and cans. So what happens is they end up with some large business who picks up a lot of his cans and a lot of his bottles and he gets paid in turn but if this quarter cent, which basically comes down to six cents on a case of Pepsi, -- one quarter cent on 24 of those cans, that comes down to six cents but if these distributors don't have that six cents to pay the fixed cost of this square footage of

storing this material, the whole system won't work. I don't think that is what any of us intend to do.

In conclusion, I hope you vote against any attempts to indefinitely postpone this measure.

On motion of Representative Baker of Orrington, retabled pending the motion to indefinitely postpone and later today assigned.

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

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(Off Record Remarks)

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On motion of Representative Smith of Island Falls, Recessed until five o'clock in the afternoon.

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(After Recess)

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The House was called to order by the Speaker.

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account (S.P. 932) (L.D. 2333)

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. 114 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.

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PASSED TO BE ENACTED

Emergency Measure

An Act to Expand the Maine Conservation Corps (H.P. 1251) (L.D. 1761) (S. "A" S-460 to C. "A" H-524)

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. 105 voted in favor of the same and 4 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 Establishing a Commission to Implement Computerization of Criminal History Record Information (H.P. 1627) (L.D. 2295) (H. "B" H-660; S. "A" S-454)

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. 115 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.

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PASSED TO BE ENACTED

Emergency Measure

An Act Authorizing the Acceptance of Federal Block Grants and Making Allocations from the Federal Block Grants for the Expenditures of State Government (H.P. 1659) (L.D. 2337)

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.

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PASSED TO BE ENACTED

Emergency Measure

An Act to Insure the Rights of the Staff of the Projects Serving Preschool Handicapped Children and Other Preschool Teachers Employed by Public Schools to Receive Maine State Retirement (H.P. 1662) (L.D. 2340)

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. 113 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.

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PASSED TO BE ENACTED

Emergency Measure

An Act Making Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987 (H.P. 1666) (L.D. 2346)

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. 112 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.

FINALLY PASSED

Emergency Measure

RESOLVE, Ratifying Washington County's Use of Unappropriated Surplus to Pay Deficits (H.P. 1572) (L.D. 2222) (C. "A" H-647)

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

FINALLY PASSED

Emergency Measure

RESOLVE, to Establish a Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine (H.P. 1624) (L.D. 2289) (H. "B" H-655)

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. 115 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Amend the Regulation of the Practice of Nursing (S.P. 816) (L.D. 2061) (C. "A" S-458)

An Act to Modify and Update Certain Laws Pertaining to Inland Fisheries and Wildlife (S.P. 916) (L.D. 2286) (H. "B" H-652; H. "C" H-654)

An Act Providing for the Lease of Unused Space or Facilities Owned by the State (S.P. 917) (L.D. 2291) (H. "A" H-636; H. "A" H-661 to H. "B" H-645)

An Act to Clarify the Separation of Juveniles from Adults when Juveniles are Detained in County Jails (S.P. 933) (L.D. 2334)

An Act Concerning Nursing Staffs in Nursing Homes, Staff Ratios, Reimbursement, Policies and Delegation of Duties (S.P. 937) (L.D. 2350)

An Act to Incorporate the Annual Review of Fee Schedules for Providers under the Medical Assistance Program into the Annual Medicaid Report (S.P. 938)

(L.D. 2351)

An Act to Amend Watercraft Excise Tax Laws (H.P. 1431) (L.D. 2022) (C. "A" H-649)

An Act Concerning State Contribution to Pollution Abatement (H.P. 1469) (L.D. 2071) (S. "A" S-463 to S. "A" S-389; H. "B" H-614 to H. "A" H-540)

An Act to Prohibit a Doe Permit System until February 1, 1987 (H.P. 1470) (L.D. 2073) (C. "A" H-630)

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.

PASSED TO BE ENGROSSED

As Amended

An Act to Provide Funds for the Teacher of the Year Program (H.P. 1517) (L.D. 2146) (C. "A" H-646)

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

On motion of Representative Melendy of Rockland, under suspension of the rules, the House reconsidered its action whereby L.D. 2146 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-676) and moved its adoption.

House Amendment "A" (H-676) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: Quite frankly, I would like to see two changes in this piece of legislation. However, in the spirit of compromise, I will only be offering one change today and I hope you will vote along with me.

My amendment changes one word and one word only -- it changes the word "may" to "shall." Just because a piece of legislation has a popular title, we must not allow it to pass unless it affects change. By changing "may" to "shall," we will be insuring that all future Teachers of the Year get this funding. However, if left as currently written, future commissioners could decide not to give a Teacher of the Year anything at all. I don't believe that was the intent of this bill.

I would like to further address myself on the Record as to what I am compromising so that we can go on to pass this bill. I strongly believe that the way this program will be funded within the legislation is not the way we should be doing it. The Teacher of the Year program is a very worthy program and should be good enough to stand on its own merits. My belief is that this legislation should be funded from the General Fund. As written, the money could always come out of innovative funds if commissioners choose to do it that way. If future commissioners decided to use their grant money in other ways, they could always have that grant type funds used up and merely have to use innovative funds each year. Granted, it is only a small amount that would have to come out of the innovative funds; however, if we continue to erode away at the

innovative fund each year, what will be left for the classroom teachers and the funds we had set aside for them? I caution you that we cannot continue to let this happen, we must protect the classroom teachers fund.

None of us like to have fiscal notes attached to our bills but if we believe we have a good piece of legislation, we should be willing to take that risk. However, I did say I would compromise on this bill so I am suggesting that we leave the funding as is and go on to pass the legislation as amended.

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

Representative HANDY: Mr. Speaker: I move the indefinite postponement of House Amendment "A".

As you may recall in the past week or so, we discussed this bill at length and I was one of the signers of the "Ought Not to Pass" Report. My good colleague, on the other side of the aisle, Representative Bost, was strongly in favor of that.

This amendment only makes what I consider a bad bill, even worse. I spoke to you during the debate about how I was concerned about eroding the Innovative Grant Program. If we were to accept the amendment before us today, we would probably obliterate the program because this mandates the money to come from innovative grants, whereas the bill that we passed that is up for enactment today, merely offered that as an option, it also offered us an option, other monies. I think we ought to avail ourselves of other options rather than going directly at the innovative grant program.

I would hope that you would support my motion to indefinitely postpone this amendment.

Representative Melendy of Rockland requested a roll call vote.

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 Handy of Lewiston that the House indefinitely postpone House Amendment "A." Those in favor will vote yes; those opposed will vote no.

67 having voted in the affirmative and 67 in the negative with 17 being absent, the motion did not prevail.

(See Roll Call No. 285)

Subsequently, House Amendment "A" was adopted.

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

#### PASSED TO BE ENACTED

An Act to Amend the Annual Operating-under-the-influence Report (H.P. 1571) (L.D. 2221) (C. "A" H-651)

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.

#### ENACTOR

#### TABLED AND ASSIGNED

An Act to Provide Appropriate Penalties for Violations of Milk Commission Statutes and to Provide for Administrative Enforcement (H.P. 1585) (L.D. 2232) (C. "A" H-648)

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

On motion of Representative Michael of Auburn, tabled pending passage to be enacted and tomorrow assigned.

#### ENACTOR

#### TABLED AND ASSIGNED

An Act Relating to Boards and Commissions (H.P. 1614) (L.D. 2269) (H. "A" H-657; S. "A" S-446; S. "B" S-448)

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

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

#### PASSED TO BE ENACTED

An Act to Require Motorcycle Driver Education for First-time Operators of Motorcycles (H.P. 1643) (L.D. 2316) (H. "A" H-659)

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

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I am opposed to this piece of legislation. When you put on a \$2.00 increase fee for every motorcycle in the state, a few people who are going to be starting a driver education course, I believe this is actually setting up a little bureaucracy and I am opposed to it.

Therefore, I would ask for indefinite postponement of this bill and all accompanying papers and ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative THERIAULT: Mr. Speaker, Members of the House: I petition you to vote against the indefinite postponement of this bill. This is a very worthwhile program. We have young, inexperienced motorcyclists slaughtering themselves on our highways every year. This bill would take care of this problem. It will make sure that before they enter on

our highways with a motorcycle that they have some proper training.

Just to explain to you briefly the procedure today to get an operators permit for a motorcycle, all you have to do is go to an examining office, take a written examination of 15 questions (I believe) and if you pass that written examination, you are given an operators permit, which allows you to be on our highways, much to that person's peril and also to those that might you might encounter and it is a very serious situation. We have tried for a number of years to change this problem in the Transportation Committee. For some reason or other, it was not recognized as a problem. More recently, we had some statistics that showed us that these first-time operators under the age of 21 were actually slaughtering themselves. This bill will address this.

In addition to that, I would like you to know that during the hearing for this bill that the organized motorcyclists of this state testified in favor of this bill. They also were the ones that suggested initially that we increase the fee by \$2.00 to take care of the problem. The majority of the committee went along with this.

I certainly would hope that, for our youngsters that are first-time operators of motorcycles, that we vote this in for their safety and protection.

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 Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The Association of Motorcycle Drivers as was pointed out, and I assume they do not represent the majority of the motorcycle drivers in this state — just like SAM on the antlerless deer, you know darn well that they did not represent the average hunters of this state. I think the Association of Motorcycle Drivers did not represent the average motorcycle driver of this state. I am one and I assure you they never asked me.

The SPEAKER: The pending question before the House is the motion of Representative McHenry of Madawaska that the House indefinitely postpone the bill and all accompanying papers. Those in favor will vote yes; those opposed will vote no.

6 having voted in the affirmative and 124 in the negative with 21 being absent, the motion did not prevail.

(See Roll Call No. 286)

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

#### PASSED TO BE ENACTED

An Act Relating to Place of Payment of Motor Vehicle Excise Tax on Leased Vehicles (H.P. 1647) (L.D. 2324)

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.

#### PASSED TO BE ENGROSSED

##### As Amended

An Act to Amend Rule-making Provisions in the Maine Administrative Procedure Act (H.P. 1663) (L.D. 2341)

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

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 2341 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-666) and moved its adoption.

House Amendment "A" (H-666) was read by the Clerk and adopted.

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

On motion of Representative Carter of Winslow, under suspension of the rules, the House reconsidered its action whereby An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account (S.P. 932) (L.D. 2333) was passed to be enacted.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I would hope this matter could be tabled pending receipt of an amendment.

On motion of Representative Michaud of Medway, tabled pending passage to be enacted and later today assigned.

The Chair laid before the House the following matter: An Act to Establish a Piscataquis County Budget Committee (S.P. 936) (L.D. 2345) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative McHenry of Madawaska, under suspension of the rules, the House reconsidered its action whereby L.D. 2345 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-677) and moved its adoption.

House Amendment "B" (H-677) was read by the Clerk and adopted.

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

The Chair laid before the House the following

matter: An Act to Authorize a Bond Issue for Androscoggin County to Raise Funds for Renovations to the County Building and County Jail (H.P. 1660) (L.D. 2338) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Nadeau of Lewiston, under suspension of the rules, the House reconsidered its action whereby L.D. 2338 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-674) and moved its adoption.

House Amendment "A" (H-674) was read by the Clerk and adopted.

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

The Chair laid before the House the following matter: Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (H.P. 1670) (L.D. 2355) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Bost of Orono offered House Amendment "A" (H-675) and moved for its adoption.

House Amendment "A" 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.

The Chair laid before the House the following matter: Bill "An Act Relating to Handling Fees and Unredeemed Deposits in the Returnable Container Law" (Emergency) (H.P. 1492) (L.D. 2103) which was tabled earlier in the day and later today assigned pending the motion of Representative Baker of Orrington that L.D. 2103 and all accompanying papers be indefinitely postponed.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: I don't intend to take a lot of time but I would like to highlight some of the reasons why I hope you will support this motion.

First of all, we had a study last summer and that study came out entirely divided to the point where the Committee as a whole was not able to approve the study. We now have before us three Divided Reports from the committee, plus an amendment, that you will find on your desk.

This bill, if it were passed to allow a quarter of a percent increase, would be a windfall to the retailers of this state in the order of \$1,125,000. The redemption centers would get only twenty-five percent of any increase that we would adopt. Maine already has the highest handling fee in the country. There is a division among redemption centers as to whether we should have an increase at all.

I would ask you to vote for indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: I would urge you to vote against the pending motion for the simple reason that this bill was a study as was indicated. This bill is an

attempt to keep the current bottle bill in effect. It has been working, it was instituted in 1978 and many people were skeptical about whether the thing would work in the first place. It has worked and it is working well. If we want it to continue to work, we have got to keep up with inflation in some manner. We have got to keep up with the fixed costs of the storage involved. We have to demonstrate that we are willing to do something.

It seems to me, especially in this election year, one of the first things you are going to do once you get into the full swing of your campaign, is you are going to go down to your neighborhood store and ask the guy to put a few posters in the window and put some of your cards on his counter. All these guys are asking you to do is give them a fair shake. All I am asking is for you to consider that.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Men and Women of the House: I hope that you will support the pending motion simply because last year, if you recall, we had a Committee Report, nine to four "Ought to Pass" to increase the bottling fee by one quarter cent and this was defeated on the floor. It is back to us again this year by virtue of going around the back fence, going through a study committee and coming up with the same bill. If you think that this will help the consumer, I've got news for you because the bottlers and the distributors are not going to absorb that additional quarter penny. That is going to be absorbed by an additional five cents on a product that you buy. Of course, living in York County doesn't bother me too much because I buy all of my bottling products in New Hampshire. Then I don't have to fool around with the bottles and you will find that there are a lot of people in York County that are doing the same. If you start to increase the price on your bottled products, you will find that more people will do the same.

We killed this bill a year ago and let's kill it again tonight. Let's put it to rest.

Representative Nadeau of Saco requested a roll call.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief, I just want to make one simple point. Where do we stop on subsidization of this new industry that we have developed? We talk about the redemption centers across the state losing money -- why is it some of them advertise that they will give you ten percent more for you to bring your bottles and cans to their redemption center? That is decreasing their income ten percent, so to me, it's not indicating that the more efficient ones are hurting that bad.

If we take a stand here today that we're going to support every redemption center in the State of Maine, no matter how much volume there is, one quarter cent won't do it folks. It's going to take a lot more than that, like three or four cents. We pay the most for our bottled beverages in this country, and if you want us to continue to be that way, consider this before you vote.

I urge you to vote indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Harper.

Representative HARPER: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 2103 is a bill which I

believe will be of help and encouragement to our small businesses here in the State of Maine, to our businessmen, especially to those who operate the redemption centers in the rural areas of our state.

My good friend up in Lincoln, Bob, who runs one of these centers, works long hours sorting and storing the large volume of cans and bottles and in helping keep the many records which are required. He works six days a week and sometimes he is doing bookkeeping on the one day off, on Sundays. My friend is working too hard, his hours are too long, but my friends, he does make a living for his family. "But I can't go on like this" says Bob. "It's demanding all of my time and all of my energy, and frankly, it's just not worth it. I need to hire help badly but I cannot afford it."

Ladies and Gentlemen of the House, I believe if this bill is passed, the hope is that the small businessman in the redemption business, especially in the rural areas, can continue to provide a much needed service to our communities and that he can also afford to hire much needed help and that he can continue to make a living for his family.

I respectfully urge your support for L.D. 2103 and I urge you to vote against the motion to indefinitely postpone.

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 Baker of Orrington that the House indefinitely postpone this bill and all its accompanying papers.

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

Representative RIDLEY: I request permission to pair my vote with the Representative from South Berwick, Representative Farnum. If Representative Farnum were present and voting, he would be voting yes; if I were voting, I would be voting no.

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

Representative VOSE: I request permission to pair my vote with the Representative from Corinth, Representative Strout. If Representative Strout were present and voting, he would be voting yes; if I were voting, I would be voting no.

The SPEAKER: The pending question before the House is the motion of Representative Baker of Orrington that the House indefinitely postpone L.D. 2103 and all its accompanying papers. Those in favor will vote yes; those opposed will vote no.

71 having voted in the affirmative and 67 in the negative with 9 being absent and 4 paired, the motion did prevail.

(See Roll Call 287)

The Chair laid before the House the following matter: Bill "An Act to Improve the Marketing of Milk in Maine" (S.P. 856) (L.D. 2168) which was tabled earlier in the day and later today assigned

pending the motion of Representative Tardy of Palmyra to accept the Majority "Ought Not to Pass" Report.

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

Representative MCCOLLISTER: Mr. Speaker, Men and Women of the House: Last session, we sent the Maine Milk Commission back to the drawing board on volume discounting. At the same time, we ordered another milk study. That study was the Unanimous Report out of the Committee on Agriculture. The study has been completed and the Report has been distributed. This L.D. addresses a few of that committee's recommendations. This bill leaves in place the Commissions farmer level pricing authority. That's right, the farmer has the same protection he has enjoyed for fifty years. However, this bill eliminates the textbook dairy as a price setter for dairies that compete in the real world of business and commerce in competition and not in the make believe world. This well may be the most important part of the bill -- returning the price setting to the real world.

For six years, I have served on the Agriculture Committee and I have observed almost to a man, each committee member becoming upset as the department would, year after year, with successive milk bills, explain this make believe dairy with a triple bond A rating -- no labor problems, no worker's comp problems, understanding dairy inspectors, and yes, Porter Leighton was their OSHA inspector; this apple pie in the sky dairy was used to determine the cost of processing milk. Over the years, the department has played with this fairy tale dairy while real dairies have gone bankrupt, while real farmers have lost their family farms, their livelihoods and their way of life.

Now with the dairies' records submitted periodically to the commission, the commission accountants will determine the most efficient Maine dairy and that will be the minimum delivered wholesale price. Then if processor A can prove to the commission that their costs are less than the commission's determined costs, processor A's cost will become the minimum price in Maine. They must, however, prove their costs to the commission before they lower their prices.

If this bill does all these things, no change in farmer protection, eliminate the fairy tale syndrome, and still prevent dairies from selling below cost, why is this not a Unanimous Report from the Committee on Agriculture -- with Grant's Dairy stating that its delivered price within forty miles of Bangor will not be increased by this bill, with Grant's and others having to add the shipping costs to their minimum price when they haul milk to Aroostook County, MPG Dairy and Houlton Farms Dairy will be protected.

Let me explain. There are southern Maine dairies who sell in the high population areas of southern Maine. The present pricing structure gives this market a very good profit, so much profit that the profit taken from these excessive high prices to the southern Maine consumers, is being used to subsidize market pricing in the central and northern parts of the State to the point where the northern dairies are in jeopardy of being driven from the market place. If this happens, what happens to the farmers, the farm supply stores, the machinery dealers, and the tax base of these towns? Without a market, these farmers will join the ranks of the 41,204 farms that



have gone belly-up in the last forty years right here in Maine. What happens to the retail price in these areas when there is no competition?

I ask you to support the Minority Report after we defeat the Majority Report today for these reasons — no change in farmer protection, eliminate the fairy tale syndrome, still prevent a dairy from selling below cost and retain central and northern Maine so there is still competition to prevent retail price increases. A no vote will do just that — assuring continued low cost milk to the consumers of Maine.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: This bill is opposed by nine of the ten Agricultural Committee members in this body. Last year, this body commissioned the study that concluded that the Milk Commission needed some fine tuning. The proposed legislation is radical surgery. Ten of the thirteen milk processors in Maine oppose the legislation. All of the small town milk processors are fearful of this legislation. Those of us who represent rural areas oppose this bill. Even the proponents agree that the milk prices will increase dramatically in many areas of the state if this measure passes.

I would like to call your attention to the handout that was passed out earlier today that has my name on the bottom of it supplying some information about conditions in New England. It is entitled "The Dairy Herd Buyout Accepts a Certain Bid." There is an item that is encircled. This handout talks about the dramatic changes that are occurring in the New England dairy industry. This bill further disrupts and is a dramatic change that is not needed in the industry at this time. The encircled portion of that handout notes that one of the proponents of this bill will be receiving from the taxpayers of the country a subsidy of nearly one million dollars a year over the next five years. Isn't it kind of ironic that one of the out of state corporations coming into Maine and trying to reduce the returns for local business is being subsidized by you and I and they claim to want free enterprise.

A vote in support of the majority of the committee is a vote in support of the Maine dairy industry from the farmer through all levels of the industry. I urge your support for the majority of the committee.

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

Representative MACOMBER: Mr. Speaker, Men and Women of the House: I would like to pose a question Mr. Speaker.

I represent a consumer district. I would like to know under which one of these Reports would my constituents be getting their milk at the lowest price?

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

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

Representative MICHAEL: Mr. Speaker, Men and Women of the House: I would say it is uncertain because no one knows exactly how this program would be implemented for one thing. We don't know how this will be worked out. It is interesting because when I

say no one, I mean when the Milk Commission was before our committee, they didn't know quite how it would work, the Commission didn't know how it would work, it seemed like a fine intellectual idea. I think that sort of sets the posture of this bill. It is a fine intellectual idea which is being presented before the dairy community and the farming community. Now it is interesting that nobody really wants this but there are some people who think it is a really good idea and I appreciate that.

As I think was mentioned, no farm group supported this bill. Only one Maine dairy supported this bill and that is one out of thirteen and ten of thirteen opposed it. I don't know what the whole effect of this thing would be. I am quite sure that the price in the rural areas will go up. I don't know what will happen in the cities. It is possible that it will go down, we don't know.

I will leave it at that. I will speak again on the bill but I will just leave it in answering your question for now.

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

Representative MCCOLLISTER: Mr. Speaker, Men and Women of the House: It is my firm conviction that the price of milk in the large metropolitan areas will be less because it will be based on their delivery costs from their local dairies.

How can we, as legislators, continue the present pricing structure? It is believed the Maine Milk Commission stands between the dairy farmer and total extinction of the dairy industry as it is known today. Let us put this fallacy to rest.

In 1935, there were 158,000 dairy cows in Maine and 2,113 milk dealers. By 1945, there remained 5,124 dairy farms, with only 140,000 dairy cows. Twenty years later in 1965, there remained only 2,158 dairy farms, milk dealers were down to 110. 58 percent of the dairy farms had gone under while 70 percent of all farms had ceased to farm. 95 percent of those Maine milk dealers were no longer in business.

Let us step ahead twenty years to 1985 — only 980 farmers are still milking cows and they're serviced by only 15 dealers. Yes, in the last twenty years, we have lost 86 percent of the milk dealers in Maine — 95 out of 110 who were in business in 1965. In addition, 55 percent of the dairy farms have gone. During this same period of protective control under the Milk Commission, farmers in general saw a death rate of 46 percent.

There are no figures available for farm machinery dealers over the years nor the number of employees that are now out of work. However, there are now 13 farmers for every machinery dealer in the state. How long will they stay in business? What do we see based on history? 81 percent of the farms that the veterans of World War II came home to are now defunct. 99.7 percent of the milk dealers, who came under the protection of the Maine Milk Commission in 1936, are now bankrupt.

Is it not time we listened to these businessmen who only ask to play on a level playing field and a law that treats the north, central, and south on an equal basis? If the dairy farmers and their organizations support the Majority Report, it appears that they're satisfied with an 81 percent failure rate.

Five dairy farmers on the Agriculture Committee

-- at this rate, only one of these farmers families will have a long term interest in farming if we do nothing as the Majority Report recommends. The position of many dealers is that 95 percent business failure is not acceptable nor is a 95 percent loss in jobs in any industry acceptable to me.

Now I will ask the question again. How can we, as legislators, continue the present pricing structure which will promote unemployment, reverse economic development, and bring about the extinction of the dairy industry as we know it today? Let us defeat the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: I would like to address a comment to the people from the urban areas who are concerned about the price of milk to their constituents. I submit to you that two large supermarket chains account for about 50 percent of the fluid milk sold in the state of Maine. The milk study that has been referred to warns very clearly that this type of pricing legislation will concentrate tremendous marketing power in the hands of those two chains. You might see a brief decline in the price of milk to your constituents, but if you expect that price to stay there, then you believe that your local supermarket is a charitable and benevolent organization.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Men and Women of the House: Last year, we voted for a study committee, this went out to study. We also passed a bill here that prohibited volume pricing or tier pricing. You remember -- we came into session and there was a big hullabaloo about tier or volume pricing? This bill, if it is passed, will outlaw tier pricing. You are going right back to where we were before.

Mr. Adler from Old Orchard, who was a small grocer on the committee that was selected, I think, summed it up very briefly. I will read the last paragraph of the letter that was sent to the committee. "In brief, milk price control has generally served Maine well but is not a panacea. Flat pricing may have helped some large handlers to expand and crowd out small dealers by overcharging large volume outlets and undercharging smaller outlets. It may have also kept down milk prices to consumer living in remote, low populated areas at the expense of urban residents. Milk control has served farmers well, providing an orderly market with cravings for their milk. Fine tuning of wholesale and retail pricing to better reflect costs should be a priority if small handlers are to be saved and the potential for interstate competition in retail markets is to be reduced." This is a man who sat through all the studies and worked on the study and worked with reports and this is his evaluation.

I would also like to say that if our Majority Report is rejected, the new draft of the bill which is before you will be before you, was never never discussed in the Committee of Agriculture at all. I feel that this should have been done. I think the whole set up is wrong. The study report came out in October 1985. We didn't meet with the committee until December 18, 1985. The bill was presented to us in the middle of March of this year and there was too little time to do the job that we should have

done. I think it was the case of somebody trying to rush it through. I don't believe this is a good way of doing business and I urge you to vote with the majority.

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

Representative SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: I think the thing that has bothered me the most about this bill is the fact that only one dealer in the State of Maine is in support of it. That dealer is in a different position than most of the dealers in southern Maine. This dealer told our committee that he couldn't live with the present pricing structure. It seemed as though maybe he wasn't making money enough to make a go of it at the present time. He also told us that, if he could lower his prices dramatically, then he would be able to survive. This means just one thing to me -- this means that that dealer is thinking about price wars. I have never seen but one reason for price wars and that was to eliminate competition. This dealer has a large competitor who is coming into his area -- if he could lower prices, there is no doubt that he could move that large southern Maine competitor back. After that, he has only three small dairies to compete with. If those small dairies are eliminated due to competition, this one dealer would have a monopoly in the whole of eastern and northern Maine. When a monopoly is gained, you usually don't see low prices. I think this is exactly what would happen.

I would urge you to support the Majority Report on this bill.

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: I approach this with some fear but not as much fear as I approach the possibility of going down and speaking before the Agriculture Committee. I have taken some ribbing for being a cosponsor of this bill and that is fine. I just don't know whether I am being lied to or whether there is some truth here.

I don't believe, Representative Tardy, that the big grocers, the big grocery chains, are charitable. They are a group that is going to buy at the lowest cost and they are going to compete. We have seen them compete and compete, in our area anyway, and maybe all of you see them compete, those who shop in supermarkets. I understand that there is a good possibility that they can, if we don't have some change in this structure of pricing where there can be some competition, that they can go out of state and buy milk cheaper. They can't pass it on to us any cheaper so they are going to make more money. I will bet they are going to do that. I have no problem with them competing with each other, that has kept prices low, at least in our area, and I think in every other area where those large corporations have been fighting. In our committee, we will make sure they are both fighting in all places with the anti-trust laws.

Look what is happening in price wars with gas and oil. We are all benefiting from that and those people aren't trying to cut out competition, they are all trying to get their share. They are all jumping around trying to get things to run and work as cheaply as possible and then they are trying to pass it on to us at making money themselves. The gas and

oil people are sure making money but we are doing fine right now.

My understanding is -- am I being lied to -- that the farmers will not be affected by this, their prices will be as totally controlled as they are now. It is the middle man, the dealer, the processor, the wholesaler, whatever you want to call them, they are the ones that will be given some leeway to compete. Why don't they want to compete? Why isn't it all right for them to compete as long as they don't sell below their cost, which I understand is a very important part of this. Why not? Who is against this?

Certainly you have heard a tale of woe here as far as the numbers of producers that have gone out of business, the numbers of dealers that have gone out of business -- what is wrong with trying something new? What is wrong with deregulation? A lot of you in here want deregulation in other areas, have applauded it, your leadership in the other party and in our party too, have been in favor of deregulation. This sounds like just a bit of deregulation in the selling and the pricing of milk. Why not? Why not now? Why won't it be a benefit to all of us who represent consumers, and all of us do -- why not?

The SPEAKER: The Chair recognizes the Representative from Benton, Representative Parent.

Representative PARENT: Mr. Speaker, Members of the House: I really hope that we don't make the mistake of passing this bill. What bothers me about this bill is that the same people that it is supposed to help are the very same people that were opposed to it; the Farm Bureau, the largest association of farmers in the state, a statewide organization against it. The Maine State Grange, again a statewide organization, made up of people who not only support agriculture but also identify with the rural way of life in general. The Maine Milk Dealers Association -- against it.

As was said before, ten of thirteen dairies from all over the State of Maine, from every nook and cranny of the State of Maine, are opposed to it. Let me name them and note their geographical location: Fitzpatrick Dairy out of Benton, outside of Waterville, Central Maine; Gonneville Dairy Farm, Saco; Hancock Creamery, Ellsworth, Eastern Maine; Stevens Dairy, Mechanic Falls; Houlton Farms Dairy, Houlton, Southern Aroostook; NPG Dairy, Presque Isle, Northern Aroostook; Maple Lane Farms, Charlston; Oakhurst Dairy, Portland, Southern, Maine; Pleasant Dairy Inc. in Lewiston; Wright's Dairy, Bucksport.

A large majority of the concerned, interested and informed people, participants in the dairy industry, are opposed to this legislation. Why?

The second point I would like to make, and maybe it is the most important one, concerns the consumer. One of the unfortunate results of this legislation is to encourage dealers to charge more for rural delivery and to charge more for small deliveries to small stores everywhere in the state.

Ladies and gentlemen of the House, the people of Maine have repeatedly and consistently, by referendum and by action of their legislature, stated that all of Maine's people, rural as well as urban, those who shop in big stores as well as those who shop in small stores, everybody, should have access to fresh daily milk at about the same reasonable price. There are some that say that is not good economics. That may be so, I don't know. I do know that it is fair and

it is just and it is traditional here in the State of Maine, and most importantly, it is what the people want.

I would ask the members of this House, all of you, who just a few months ago voted against volume discount pricing, to use the same good judgment, the same clear understanding of the issue and to do the same thing today with this bill, vote against it and turn it down. After all, the same basic principle here is at stake, fresh daily milk to all Maine's people at about the same fair and reasonable price.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Recently, we just completed the economic development tour and I was glad to go with my good friend and colleague, Representative Whitcomb, who took me right into one of the dairy farms over there in his neck of the woods and it really gave me a good idea of how the dairy farmers were doing, what they were doing and the hard work that they do.

If Representative McCollister is correct, they won't be affected at all. I am not quite sure. I am hearing one thing and yet Representative McCollister said they are not going to be affected at all.

Ladies and gentlemen, in my district, I have the largest dairy in the State of Maine, Oakhurst Dairy. Many of you who went on the tour with me, I pointed out Oakhurst Dairy four or five times as we walked around or drove around the University of Maine. What bothers me is the fact that Oakhurst Dairy is about 150 to 200 yards from the largest grocery store in the State of Maine. Yet, it costs the same amount of money there for a quart or gallon of milk as it does for Oakhurst Dairy to bring that -- and I have seen trucks when I was in Bangor -- all the way to Bangor.

I understand the problems of rural versus the urban but let me give you this scenario -- how many urban people, when they want a cord of wood, get the same price as the rural person does? That is just as important as some urban people to have cheap heat as it is the rural people. I think we have to start looking at the fact that transportation has got to start playing a role. If people want to live in the urban areas, they ought to have some benefits from it and if people want to live in the rural areas, they ought to have some benefits for it.

If you want to start talking about subsidizing, nobody subsidized in the City of Portland -- it is costing us an awfully lot of money for fire and police protection to have the hospitals there and we don't get any benefits from taxes at all.

When you have the largest dairy in the State of Maine within 200 yards of the largest grocery store in the State of Maine, is that fair to be able to charge the same amount of money there as it is in Bangor, Maine, 150 miles up the road? I don't know, I don't think it is. I have had a problem with this since I have been here, which was 1981. I just don't understand why transportation shouldn't be taken into account. I would appreciate it if anybody could answer that.

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

The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Members of the House: I can agree, believe it or not, with the

Representative from Portland, that there are some changes and adjustments that need to be made to the Maine Milk Commission. Believe it or not, there is quite likely to be some legislation in the next session for those of you who choose to return to address that subject. However, as I said before, the legislation before us is not fine-tuning of the Maine Milk Commission, it is radical surgery.

I would hope you would agree with the majority of the committee that the bill that is before us is not the bill to do the job that needs to be done.

Representative McCollister of Canton was granted permission to address the House a third time.

Representative MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I have to agree with the previous speaker, the Majority Report is killing a very bad bill. The Minority Report, with its changes, does what Representative Manning asked -- why we didn't do something. Why wait until next year when the bill is just one vote away from it?

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I know that we are hoping to get out of here by Wednesday, but if people have some ideas, (and I am willing to listen to some ideas), on what should be done to this bill -- maybe not fine-tuning this bill and maybe not have drastic surgery, then I would hope that somebody would think about this and table it. Hopefully, if we are going to be back over the weekend and back here Monday or Tuesday, then maybe the Agriculture Committee and people who are interested in this could sit down and try to work some solutions out. If this issue has been here since 1981, from my point of view, and I think people have got some ideas, I would like to see somebody table this and try to work some solutions out so we could get this bill passed so that those people who live close by should be able to get some break. I think, if we are going to talk about fairness, if you live 200 yards from a dairy, you should be able to get some break.

Look at oil and gasoline -- if somebody is going to haul a tank of gasoline all the way up to Fort Kent from Searsport, that is going to be a little more expensive than it is if they are going to deliver it just two blocks away.

I would hope that somebody would table this and we take a look at this this weekend and come back with an amendment to this bill, if you have problems with it.

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

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I won't take up too much time. There are a few points I just want to make.

First of all, I want you to know that the consumers in Maine are doing quite well now. The price of milk, compared to what it is nationally, is low and we are getting a very good shake as it is.

I could see some problems that could be adjusted but part of the problem is the bill that originally came into the committee wasn't discussed at the hearing. There has been a new version come out. It is not how you handle a complicated issue like this especially after we went and tried to have a work study on this and every thing else so I certainly hope we don't table this because nothing is going to change on this except people who keep lobbying and keep bothering you in the halls to support their

point of view based on the fact that they think they will do economically better if you vote their way. That is one thing that is going on. There is certainly an effort going on here, where people think they can survive or do well, will recommend that you vote one way or another.

I don't know if people really understand this but there is a federal buy-out program which has recently gone into effect. Week before last, we found out that Maine is losing 11 percent of its dairy production. In addition, in New England, it is about the same kind of thing. We don't even know how much milk will be available from out of state if it could even be brought up here. We don't know if there will be a shortage of milk. We are in a very unusual place. We have never had a buy-out program like this and suddenly overnight we have lost 11 percent of our production, something none of us anticipated. We knew there was a buy-out program coming but we didn't know it would be like this.

Representative Lord mentioned this and I want to make sure that everyone understands -- you remember last year, at the beginning of the year, he called it a hullabaloo and I have written here in my notes, a Hey rube, that we had at the beginning of last session when the commission put out an order allowing volume pricing.

I got more calls on that than I have ever got in my entire life. People from the little stores, and I am not talking about the rural stores, they were calling too, but I am talking about the stores in Auburn and Lewiston. All the little stores were calling saying, listen if we are going to be able to go to Shop and Save and buy milk at retail for eight cents a gallon cheaper than we will be able to buy it wholesale, we will have to close because people come in our store to get the staples such as milk.

The result of that whole process, and we were engaged in it for a couple of weeks, we were all getting letters and everything else -- you may remember that we passed a prohibition on volume pricing. If we should somehow pass this bill, which I recommend we do not, that prohibition is canned. That gives you some idea as to the kinds of changes that will be happening.

I want to remind you once again that nobody knows how this will work. No one has told us how this plan will work.

I recommend that we vote yes for the Majority "Ought Not to Pass" Report and handle this today.

The SPEAKER: The Chair recognizes the Representative from Benton, Representative Parent.

Representative PARENT: Mr. Speaker, Members of the House: Just one brief point. This bill is full of uncertainties and it is apt to have more unintended adverse side effects than the birth control pill. It is apt to cast a shadow over the dairy industry that it can ill afford at this time. I would again ask you to vote to support the "Ought Not to Pass" Report.

I would ask for a roll call.

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

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

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

106 having voted in the affirmative and 31 in the negative with 14 being absent, the motion did prevail.

(See Roll Call No. 288)

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

Representative MICHAEL: Mr. Speaker, having voted on the prevailing side, I now move that the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted.

The SPEAKER: The Representative from Auburn, Representative Michael, moves the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted. Those in favor will vote yes; those opposed will vote no.

A viva voce vote was taken, the motion to reconsider did not prevail.

The following item appearing on Supplement No. 7 was taken up out of order by unanimous consent:

#### REPORTS OF COMMITTEES

##### Ought to Pass in New Draft

Representative ALIBERTI from the Committee on Business and Commerce on Bill "An Act Relating to the Social Worker Registration Law" (H.P. 1520) (L.D. 2140) reporting "Ought to Pass" in New Draft (H.P. 1683) (L.D. 2370)

Report was read and accepted, the New Draft given its first reading and assigned for second reading tomorrow.

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

#### PASSED TO BE ENGROSSED

Bill "An Act Concerning Property Tax Assessment and Appeals" (H.P. 1678) (L.D. 2364)

Bill "An Act Relating to Retirement Benefits for Confidential State Employees" (H.P. 1680) (L.D. 2366)

Bill "An Act to Authorize Certified Law Enforcement Officers to Prosecute Violations of Municipal Ordinances" (H.P. 1677) (L.D. 2363)

Bill "An Act to Consolidate the Charter and Increase the Debt Limit of the Dover and Foxcroft Water District" (Emergency) (H.P. 1679) (L.D. 2365)

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

#### PASSED TO BE ENGROSSED

##### As Amended

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Legislative Veto over Agency Rules (H.P. 1579) (L.D. 2228) (C. "A" H-664)

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

The following items appearing on Supplement No. 9 were taken up out of order by unanimous consent:

#### PAPERS FROM THE SENATE

The following Joint Resolution: (S.P. 944)

#### JOINT RESOLUTION REQUESTING THE JOINT SELECT COMMITTEE ON ECONOMIC DEVELOPMENT TO STUDY THE FINDINGS AND RECOMMENDATIONS OF THE JOINT SELECT COMMITTEE THAT STUDIED THE SHOE INDUSTRY

WHEREAS, the mature industries in the State which have been a very significant component of the Maine economy in previous decades and which are currently experiencing serious difficulties resulting from imports, management and marketing problems and the changing national economy; and

WHEREAS, the Joint Select Committee to Study the Shoe Industry examined mature industries and found that these industries, with the precise type of assistance that they require, have the potential to be a very important and healthy part of the Maine economy; and

WHEREAS, the Joint Select Committee to Study the Shoe Industry reviewed various approaches to economic development in Maine and concluded that a state economic development strategy that includes assistance to mature industries is necessary to the future growth of the state economy; and

WHEREAS, the Joint Select Committee to Study the Shoe Industry proposed several major types of assistance as a means to invigorate mature industries to include a Center for Mature Industries, a Maine Industrial Advisory Board, a new focus for the State Development Office and the establishment of a Business Advocate to represent the interests of business; and

WHEREAS, the Joint Select Committee to Study the Shoe Industry recommended the creation of a legislative Joint Standing Committee on Industry and Commerce commencing with the First Regular Session of the 113th Legislature; and

WHEREAS, these proposals may also have a very significant impact upon other types of industry and enterprise in Maine; and

WHEREAS, economic development assistance programs

in the State need to be consistent and compatible with a development strategy; and

WHEREAS, the Joint Select Committee on Economic Development has been established to review economic development programs in the State with the objective to bring a consistent, focused direction to economic development efforts in the State; now, therefore, be it

RESOLVED: That We, the Members of the 112th Legislature, recommend and request the Joint Select Committee on Economic Development to study the findings and recommendations of the Joint Select Committee to Study the Shoe Industry proposed in that select committee's report and in legislative document 2015 presented by the select committee to the Second Regular Session of the 112th Legislature; and be it further

RESOLVED: That copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Joint Select Committee on Economic Development and to the members of the Joint Select Committee to Study the Shoe Industry.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

#### Divided Report

#### TABLED AND ASSIGNED

Majority Report of the Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-464) on Bill "An Act to Establish a Universal Telephone Service Program" (S.P. 930) (L.D. 2317)

Signed:

Senators: WEBSTER of Franklin  
BALDACCI of Penobscot  
ANDREWS of Cumberland

Representatives: PARADIS of Old Town  
RICHARD of Madison  
CLARK of Millinocket  
NICHOLSON of South Portland  
McHENRY of Madawaska  
BAKER of Portland  
VOSE of Eastport

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

Signed:

Representatives: WILLEY of Hampden  
WEYMOUTH of West Gardiner  
WEBSTER of Cape Elizabeth

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-464)

Reports were read.

Representative Vose of Eastport moved that the House accept the Majority "Ought to Pass" report.

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

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

#### Divided Report

Majority Report of the Committee on Local and County Government reporting "Ought to Pass" on Bill "An Act to Define Terms in the Manufactured Housing Zoning Law" (S.P. 738) (L.D. 1891)

Signed:

Senators: BALDACCI of Penobscot  
TUTTLE of York  
STOVER of Sagadahoc

Representatives: MURPHY of Berwick  
McHENRY of Madawaska  
ROTONDI of Athens  
MASTERMAN of Milo  
HALE of Sanford  
WENTWORTH of Wells

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

Signed:

Representatives: DAGGETT of Manchester  
NICKERSON of Turner  
SMITH of Island Falls  
SALSBURY of Bar Harbor

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

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative McHENRY: Mr. Speaker, I move indefinite postponement of this L.D.

I am a cosponsor of this piece of legislation. It was put in because 20 communities, mostly in the South Portland area, have created obstacles in placing manufactured homes on individual lots. Some of these obstacles are the roof pitch which are steeper than are built on manufactured homes; types of foundations which are more expensive than foundations for comparable stick-built homes and which are not properly designed for manufactured homes.

Following the hearing on this L.D., the Maine Municipal Association indicated that the manufactured housing industry had presented technical arguments which MMA had not previously heard. MMA offered to call representatives of the community who were

concerned together to hear the industry's concern. MMA also informed its members that it would not be lobbying in support of arbitrary local standards. The manufactured housing industry, despite this strong 9 to 4 "Ought to Pass" report, which also includes three Senators on the committee, agreed with MMA. At that point, L.D. 1891 was tabled unassigned in the other body. Discussion began on March 26 between the two groups and are continuing.

Of course, communities did not have time to amend their ordinance before we adjourned; thus the industry has knowingly given up the opportunity for a legislative remedy in this session in the hope that these 20 communities will follow the lead of MMA and look again at this issue with an open mind.

If this decision does not result in positive change, we will be back again next year with an even stronger case for legislative action. Therefore, I ask that L.D. 1891 be indefinitely postponed, not because it is a bad piece of legislation but to let those communities demonstrate their good faith. I feel obligated because I feel that I, as a member on that committee and as chairman of that committee, gave my word to both parties that I would let them try to work it out. If they do not work it out, we will be back next year and I am sure the sponsors will be back with a stronger bill and a stronger position.

Subsequently, the Bill was indefinitely postponed. Sent up for concurrence.

#### Non-Concurrent Matter

Bill "An Act to Recodify the Laws of the Maine State Retirement System" (S.P. 886) (L.D. 2231) which was passed to be engrossed as amended by House Amendment "A" (H-596) in the House on March 24, 1986.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-596) as amended by Senate Amendment "A" (S-467) thereto and Senate Amendment "A" (S-468) in non-concurrence.

The House voted to recede and concur.

Recalled from the Governor's Desk  
Pursuant to Joint Order S.P. 941

#### Non-Concurrent Matter

An Act to Strip Crime of its Profit (S.P. 847) (L.D. 2139) (H. "B" H-591)  
- In House, passed to be enacted on March 25, 1986.  
- In Senate, passed to be enacted on March 26, 1986 in concurrence.  
- Recalled from the Governor's Desk pursuant to Joint Order (S.P. 941)

Came from the Senate passed to be engrossed as amended by House Amendment "B" (H-591) and Senate Amendment "A" (S-469) in non-concurrence.

The House voted to recede and concur.

#### 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:

#### Appropriations and Financial Affairs

Bill "An Act to Fund and Implement a Certain Collective Bargaining Agreement" (Emergency) (H.P. 1684) (L.D. 2373) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: President PRAY of Penobscot and Senator PERKINS of Hancock)

(Ordered Printed)  
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:

(S.P. 860) (L.D. 2174) Bill "An Act to Establish the Maine Vocational-Technical Institute System" (Emergency) Joint Select Committee on Vocational Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-465)

On objection of Representative Ayer of Caribou, was removed from Consent Calendar, First Day.

Report was read and accepted.

Committee Amendment "A" (S-465) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

The following item appearing on Supplement No. 10 was taken up out of order by unanimous consent:

#### PASSED TO BE ENACTED

An Act to Prohibit Mandatory Retrospective Rating in Workers' Compensation Insurance Policies (H.P. 1598) (L.D. 2251)

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

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all its accompanying papers be indefinitely postponed.

I urge you to vote against enactment of L.D. 2251. Basically, what this bill does is prevent the superintendent of insurance from performing his duties. Let me give you some background. In the last session, we enacted a major piece of workers' compensation insurance legislation. That legislation created two assigned risk pools, one called the

safety pool and one called the assigned risk pool. The Bureau of Insurance was ordered to develop a plan for operation of those pools.

In addition to the assigned risk pools, there is also in the workers' compensation jargon, a voluntary market. In effect, it is an open market.

Many large employers in the state have been in this voluntary market. One of the techniques that the larger employers use in the voluntary market, in order to keep their workers' compensation costs down, particularly if they feel that they have control of their safety organization, they like to purchase what is called retrospective policies. Now, it sounds like a complicated word but retrospective means that, after the end of the year, then you pay additional money if your safety record has been poor or you get back a rebate if your safety record has been good. In effect, this is a way of controlling costs. So far so good.

Unfortunately, we are now facing a situation where some large employers are using a loophole in the law that we enacted last year to move themselves from the voluntary market to the assigned risk pool to take advantage of the freezing of insurance rates and the eight percent discount that you may recall we enacted in the last session. Since by law, the cost in the assigned risk pool are shared and are subsidized to some extent by those in the safety pool and in the voluntary market, that results in other employers, in effect, picking up some of the costs of these large employers moving into the assigned risk pool.

We had the example in the committee of one of our larger, if not our largest employer, doing just this and moving over to the assigned risk pool and saving at least \$5 million and some would estimate as much as \$9 million by making that move.

We have had some additional evidence of other employers who have begun to switch since the first of the year, and this is since our hearing and our work sessions, and I would like to advise you of what has happened. Since January 1st, alone, a number of companies have moved into the assigned risk pool rather than stay in a voluntary market under retrospective rating. I can cite five companies with the premiums of \$830,000, \$607,000, \$253,000, \$222,000 and \$310,000 with the poor experience that went into this so-called assigned risk pool. These risks included two hospitals, an electric utility, a forestry company and a construction company.

Even more alarming is that we are aware of at least three risks, which had fair experience records and now have refused the retrospective rating plan on the voluntary market and jumped into this assigned risk pool. These included a dairy with a premium of \$248,000; an educational institution with a premium of \$140,000 and a company in the forestry business with a premium of \$269,000.

Clearly, that is not what we intended when we enacted this bill last year. The insurance superintendent has promulgated a rule which says that, if you move from the voluntary market into the assigned risk market and you are a large employer, you must go back to the retrospective rating that you had in the voluntary market. In effect, that says you can't gain by moving from the voluntary market to the assigned risk pool. I think that is a reasonable position. I hope that you will support the motion to indefinitely postpone these papers so that the superintendent of insurance can be left to administer

the program as we had instructed him to do last session.

At this point, the Chair appointed Representative Gwadosky of Fairfield to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

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

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: Needless to say, I hope you do not vote in favor of the indefinite postponement of this legislation.

As Representative Baker mentioned, a year ago we were deeply involved in workers' compensation revisions -- many, many changes. As we worked through this thing for the weeks and months that were involved, we became aware that, as we were going, that the insurance companies were going to receive all of the benefits of the various things that we were going to do. That was not our idea in the first place, that some of these benefits had to go back to the employer, that the insurance company should not retain them all. Therefore, as a part of the bill that we passed last year, we put in a discount of 8 percent, that is what it amounted to. That passed through this body with only 16 dissenting votes.

You have got to remember that with retrospective plans, it has always been voluntary. It is voluntary in every single state of the United States. It is no good if it is not voluntary. There were, the time that I was using the retrospective plan, as I did for many years, there were five different types of plans. It's a gamble. If the employer wants to gamble that he can have a good record, then he can get a low modification rate on the low end. For instance, mine was 65 percent -- that is .65 times the mandatory rate, possibility of saving a lot of money. On the high end, it was 1.17. So if I had a bad experience in a given year, then I would multiply the experience modification by that, the mandatory rate, so you paid more. These contracts ran anywhere from three years to five years.

In the instance that Representative Baker mentions where a very large employer got out of this thing was through a fluke and it was in 1984 when the largest employer in the state (I guess) went through reorganization and the ownership changed on paper. There is something or other on the statutes that says when this happens, you start with zero. They took advantage of this fluke and saved themselves a bundle of money, several million dollars.

It seems to me that if you make this mandatory on the retrospective plan, you are in effect defeating the purpose of insurance. If a given employer wants to gamble, that is fine, but you have got to remember the purpose of insurance is to spread the cost of a disaster over a larger base.

For instance, if your house burned down, you don't have to pay for it out of your own pocket, it comes out of all the people who are involved in that plan, so it is not a disaster to an individual. If



you make them all have a retrospective plan, everybody that has premiums over \$100,000, what have you done? You in effect have said, if you have a bad year, you are going to face a disaster, you are going to go out of business. That is bad enough with the figures that I have mentioned and the experience that I have had with 65 on the low end and 117 on the high end but the affair that Mr. Briggs intends to force on everybody is 150 percent on the high end and if that held true with the same ratio that I mentioned with my own experience, it would be zero on the low end. But that is not the intent, that would not be a part of it.

It seems to me it is very self-defeating and is an end run around the 8 percent that they were forced to give back to the employers a year ago. It is a way to increase their premiums to overcome what we mandated a year ago would have to be passed back to the employer. It is nothing else but that. If it is such a heck of a great idea, I wonder why no other state in the union does it, not a single one. It is simply mandated by the commissioner of insurance for that very purpose.

Right now, I am not too sympathetic with insurance companies to be perfectly honest because, everywhere we turn, it seems that insurance companies are willing to insure you if you don't have a risk. The whitewater rafting thing we talked about here recently; the liability coverage which towns are forced to feed an increase of several hundred percent and it is going up further; the instance of malpractice and virtually everything that you can think of is going in that direction. Maybe they need these funds but they have got to get them by rate increases, a more legitimate way than this, it seems to me. Next year, they will be eligible to apply for a rate increase. They are not right now but they can be next year and that is what we proposed in the first place a year ago and what should happen now. At this point, we shouldn't dismantle a system that we set up a year ago.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Cashman.

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

My question is addressed to the gentleman from Orrington. He leaves me with the impression that it is his feeling people are leaving the open market of workers' comp underwriting to go into the assigned risk pool and employers are leaving voluntarily. I would like to know if the gentleman knows of any workers' comp underwriters in the State of Maine who are offering plans on the open market? I don't know of any.

The SPEAKER PRO TEM: Representative Cashman of Old Town has posed a question through the Chair to the Representative from Orrington, Representative Baker, who may respond if he so desires.

The Chair recognizes that Representative.

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman from Old Town, there are companies writing retrospective plans on the voluntary market.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: I guess I just beg to differ with the gentleman. I have been in the insurance business for 12 years. I write workers' comp insurance through 12 or 14 different insurance

carriers and I don't know of a single insurance carrier in this state who is offering plans outside the assigned risk pool. If employers are getting into the risk pool, it is because they don't have any choice. On renewal, their workers' compensation policies are not being renewed and they are being forced into the assigned risk pool -- at least that is the experience in my agency.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address to you today the question of what was really intended when we passed the Workers' Compensation Reform in June of 1985.

The primary concern of all parties which appeared before our committee, business, labor and insurance interests, including the Bureau of Insurance, was to develop competition within the insurance market for good risk to decrease worker compensation costs, develop a safety pool to protect small risks, which for some reason, were not being picked up on the voluntary market.

As an economist, I like the voluntary market but our worker compensation package is one of the worst in the country. It is not a free market system. There are so many pressures from different areas working on it that it is not working. Laissez-faire doesn't work here. There are some companies that were financial motivated, and legally so, to take advantage of the system.

We all hope that in 1990 that this system, having passed through a transitional phase, that we are just starting will work out and perform the functions that was intended. However, the problem right now is in the transitional phase.

This development of people taking advantage of this system concerns me greatly. First, it shows a movement away from an emphasis of safety in the work place, which we are all concerned about. I am not so sure how real that is but it seems to be a great concern of many people.

Second, it really scares me that the bureau may be correct, that there are businesses in the State of Maine who may have a loss experience that is so poor that they would go into the risk pool, high risk pool, and willingly enough, absorb that 20 percent increase. I have some problems with that. In one case, a large employer did that.

I guess we have to pick the least of two evils here. The system is in a transition stage. We can not talk free market because of the artificial pressures that are put on that. Here comes the role of the superintendent of insurance to try to balance this out as best he can through the transition time where we froze our rates, we have mandated reduction and we have mandated maximum increases.

I think we, as a legislature, stand as part of this process and our responsibility in this body is to get the forces together in the triangle, the labor, the management and the insurance. They are not working together, they all share some of the blame. I have learned about some in the past here. I think we have failed in not being able to get them to work together.

Everybody is objective. 100 percent of us agree that the objective is a safe workplace for all our workers in the State of Maine. Unless we, as a legislature, can put away some of our prejudices within the next session, we are going to have safety

in the work place, it is going to be 100 percent because no one is going to be in that work place to get hurt. I have a problem where the costs of working in the State of Maine is so tremendously high. I am not going to tag it on labor or management or the insurance companies, I am being frustrated with all three because I think they are all close to sharing some of the blame.

We have tried to take care of this vastly complex problem with band-aid approaches and the industry is hemorrhaging right now, it is costing jobs, and we need to do something about it. It doesn't matter if you are a Democrat or a Republican. I am not grandstanding at all, I am just venting frustration over the last 18 months. I think the best we can do now is short solutions. I think moving and supporting the "Ought Not to Pass" on this bill will, hopefully, get us through to the Fall and we can do something next Spring. I urge you to vote "Ought Not to Pass."

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At this point, the Speaker resumed the Chair.

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The House was called to order by the Speaker.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: Very briefly, I would like to simplify this as much as possible. The important thing to remember is last year we here in the legislature structured a system of Workers' Compensation Reform, both on the insurance end of it and on the benefits end of it. That package was tied together very tightly.

In the insurance end of it, we attempted to create an open market for the sale of insurance in a period beginning in 1989, three years after the enactment of the legislation. In that interim period, it was very important, according to most of the people in the legislature, as well as labor, and as well as the business community, in structuring that entire system, that if we were going to vote to cut certain benefits under workers' compensation that the savings from that benefit should go to those employers who are paying the bills. That was the bottom line.

We structured a bill last year that said, we will cut certain benefits but we will make sure that the costs that are going to be saved by the employer, goes to the employer and doesn't go simply to the insurance company through a reduction in their costs. So what we did was pass an 8 percent discount immediately, we froze the cost of premiums that first year, we allowed for a slight increase the second year, we allowed for a slight increase the third year. Then after the third year, it would be a totally open market for workers' compensation insurance. That is a good compromise that we did last year and I think it is one that we should stick to.

Unfortunately, what the rule that was promulgated by the Bureau of Insurance would do, it would say to those large companies in the State of Maine, and

those insurers that are writing their workers' compensation, it says, fine, we will write you insurance but you have to take this retro plan. It is a mandatory retro plan, which means we will sell you the insurance at the same rate but at the end of the year if you have had losses, we will send you another bill, up to 50 percent above your cost of insurance. In essence, we are saying we are taking off the ceilings we have put in place last year and we are allowing up to 150 percent increase for certain businesses in the State of Maine, the larger businesses that would fall under the Bureau of Insurance's orders. I think that is wrong, plain and simple, it is wrong because it is a mandatory plan.

Retro plans that have been described to you can be a good thing but they can be a good thing only when it is geared and tailored to an individual business and that individual business wants to buy that type of a plan. It becomes a very bad thing when the Bureau of Insurance and the legislature says, retro plans are mandatory whether you want it or not as a business.

One of the businesses that came and testified at the hearing said, dealing with retro plans is basically Russian Roulette, sometimes you do well, sometimes you won't. It ought to be that an individual business buying the insurance that makes up its mind whether it wants to play Russian Roulette and it shouldn't be the Bureau of Insurance saying that a retro plan will be mandatory from this point onward.

In concluding, ladies and gentlemen, I would urge you to maintain the spirit of the bill that was passed last year, maintain those caps that were put in place with the incremental increases as they occur over the next three year period and oppose the idea of a mandatory retro plan. In so doing, I would urge you to oppose the pending motion of indefinite postponement.

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

Representative ARMSTRONG: Mr. Speaker, Ladies and Gentlemen of the House: The hour is late and the day has been long so I will attempt to be brief. It can be a complex issue so I will try to clear it up for those of you that aren't fully sure what we mean by retrospective rating plans.

The whole issue here is, should the large Maine companies, and when we are talking about those that pay \$100,000 or more in annual workers' compensation premiums, should these large Maine companies be held responsible for their own workers' compensation insurance claims experience? The Bureau of Insurance thinks they should, the Superintendent of Insurance thinks they should and I think they should.

Look at this for an analogy. Most of you are familiar with a safe driver insurance plan. Most of you, when you buy automobile insurance, have your policy written under the safe driver insurance plan. If you have no losses, no at fault accidents, no serious convictions, you get a credit. This is like an experience rating plan of workers' comp or retrospective rating plan. If you have claims, if you have losses, if you are arrested for driving under the influence, your rates go up. What we are doing under workers' comp, if you pass this bill, you are allowing those who have the bad experience to, instead of experiencing the higher rates, you are allowing them to duck into a subsidized lower cost insurance pool. Someone has to pay to subsidize

those losses. As I said, we are only talking about the large companies that presumably through adverse safety programs can have some effect on their own workers' compensation insurance claims.

The Superintendent of Insurance says that, not only should they be in a retrospective rating plan so that they can get lower premiums if they have good credit, but when their experience turns bad, they should not be able to duck into a lower price pool. I think this is an issue of fairness, we have given the Superintendent of Insurance the power and authority to promulgate regulations in the past and he has done it. Now, this bill attempts to overthrow the regulations promulgated by the Superintendent of Insurance.

I would urge you to vote for the pending motion for the postponement of this bill and all its accompanying papers.

Representative Martin of Eagle Lake requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Orrington, Representative Baker, that L.D. 2251 be indefinitely postponed.. Those in favor will vote yes; those opposed will vote no.

20 having voted in the affirmative and 110 in the negative with 21 being absent, the motion to indefinitely postpone did not prevail.

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

(See Roll Call No. 289)

The following items appearing on Supplement No. 11 were taken up out of order by unanimous consent:

#### COMMUNICATIONS

The following Communication:

State of Maine  
One Hundred and Twelfth Legislature  
Committee on Utilities

April 10, 1986

Honorable John L. Martin  
Speaker of the House  
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Utilities during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred

to our committee follows:

Total number of bills received	44
Unanimous reports	39
Leave to Withdraw	15
Ought to Pass	4
Ought Not to Pass	1
Ought to Pass as Amended	11
Ought to Pass in New Draft	8
Divided reports	5

Respectfully submitted,

S/Senator John E. Baldacci

S/Rep. Harry L. Vose

Was read and ordered placed on file.

The following Communication:

State of Maine  
One Hundred and Twelfth Legislature  
Committee on Fisheries and Wildlife

April 9, 1986

The Honorable John L. Martin  
Speaker of the House  
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Fisheries and Wildlife during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	16
Unanimous reports	14
Leave to Withdraw	4
Ought to Pass	1
Ought Not to Pass	2
Ought to Pass as Amended	4
Ought to Pass in New Draft	3
Divided reports	2

Respectfully submitted,

S/Sen. Zachary E. Matthews  
Senate Chair

S/Rep. Paul F. Jacques  
House Chair

Was read and ordered placed on file.

The following item appearing on Supplement No. 12 was taken up out of order by unanimous consent:

CONSENT CALENDAR

FIRST DAY

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

(H.P. 1641) (L.D. 2315) Bill "An Act Making Supplemental Appropriations from the General Fund to Implement the Recommendations of the Visiting Committee to the University of Maine and for Other Purposes for the Fiscal Year Ending June 30, 1987" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

Was read.

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

Representative Higgins of Scarborough moved that L.D. 2351 be recommitted to the Committee on Appropriations and Financial Affairs.

Representative Diamond of Bangor requested a Division.

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(At Ease)

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The House was called to order by the Speaker.

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

Representative HIGGINS: Mr. Speaker, Men and Women of the House: I know the hour is late and I hesitate to even bring the issue up at this late date, but this afternoon in our committee, we had a rather unique experience. I wanted to relate that to you because it deals directly with this particular issue and that is the proper funding of the University of Maine. We all know that we are working very diligently and very sincerely in an attempt to provide some additional revenue to the University, but, at the same time, we are going to have to find some sources within our own state budget to pay for that.

The concern that I have on this is that this afternoon the committee voted to -- not unanimously but in a split report -- add to a \$7.7 million bond issue that the Governor recommended some \$4.5 million, I believe, to include the construction of a campus in Lewiston. I, for one, have a small problem with that.

I don't think we were brought here to deal with that issue at all. I think that the issue before us is adequate funding of the University of Maine as it is now. One of the things that I think we all saw in the Visiting Committee's Report is that the University is underfunded at its current level. At this time to add an additional campus seems to me to

be, not only counter-productive, but fiscally poor management. The Trustees, and I think the University staff and the Visiting Committee, ought to take a look at that and tell us whether they want that included or not.

I, for one, am very reluctant to vote additional money for the University of Maine system if it means that its going to go eventually towards providing another campus. I don't blame the people from Lewiston. I know they're underserved, that its the second most populous area of the state but I didn't create the University system the way it is now. We were given seven campuses, that's a given. Unless someone wants to close another one, I'm not in favor of opening an eighth campus in Lewiston.

I'm sorry, but when I look at the dollars and cents and when I look at the people who come before our committee and say, we don't have enough money to run our current operations adequately, then I say we're spreading ourselves too thin. I hate to see that happen. I don't want to see it happen. I think it diminishes the University system as a whole, and I am opposed to that.

I hesitated to make the motion to recommit but I felt that that sort of an action that took place after we voted this bill out deserved some consideration by this body. I want to send a message out to the University people, the Trustees and the Visiting Committee and say to them, is that what you want? Is that part of the problem that we were brought here to address at this late date? I don't think it is but if we're going to send out to the people a bond issue that includes another campus, then I want to look at this particular piece of legislation again. I think we all might share that same concern.

Mr. Speaker I withdraw my motion to recommit.

The SPEAKER: The Representative from Scarborough, Representative Higgins, withdraws his motion to recommit. The pending question now is acceptance of the Unanimous Committee Report from the Committee on Appropriations.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Scarborough has just alluded to an item that's not even before us. He is referring to a bond issue that's still in committee and he would have us believe that the bond issue that's still in committee is part of the recommendations by the distinguished Visiting Committee when, in fact, the two are not related.

The bond issue that is in the Appropriations Committee is the result of needs that were established long before the Visiting Committee's report was released. Any legislative document, for as long as I have been here that has been introduced in these hallowed chambers, is not sacrosanct except for perhaps collective bargaining bills, which are not amendable, but any other piece of legislation can be reworked by the committees and generally they are. That's what we are here for. No piece of legislation is introduced that's not amendable except, as I stated before, a collective bargaining bill. I would hope that we would send this particular bill on its way.

Subsequently, the Committee Report was accepted, the bill read once and assigned for second reading tomorrow.

The following items appearing on Supplement No. 13 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Ought to Pass in New Draft

Report of the Committee on Human Resources on Bill "An Act to Protect the Public Health in Relation to Acquired Immune Deficiency Syndrome" (Emergency) (S.P. 818) (L.D. 2063) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 943) (L.D. 2367)

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, Friday, April 11, 1986.

Non-Concurrent Matter

Bill "An Act to Enhance the Sound Use and Management of Maine's Coastal Resources" (S.P. 855) (L.D. 2167) which was passed to be engrossed as amended by Committee Amendment "A" (S-456) and House Amendment "A" (H-665) in the House on April 10, 1986.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-456) and Senate Amendment "A" (S-471) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 14 was taken up out of order by unanimous consent:

CONSENT CALENDAR

FIRST DAY

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

(H.P. 1342) (L.D. 1879) Bill "An Act Relating to Day Treatment Services for Emotionally Disturbed Children" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-679)

There being no objections, the above item was ordered to appear on the Consent Calendar of Friday, April 11, 1986 under the listing of Second Day.

The Chair laid before the House the following matter: An Act to Provide for a Job Development Training Funding Capability within the Resources of the State Contingent Account (S.P. 932) (L.D. 2333) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative CARTER: I offer House Amendment "B" (H-681) and move its adoption.

On motion of Representative Carter of Winslow, under suspension of the rules, House Amendment "B" (H-681) was not read.

House Amendment "B" was adopted, the bill passed to be engrossed as amended by House Amendment "B" and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

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

Divided Report

Majority Report of the Committee on Energy and Natural Resources on Bill "An Act to Amend the Laws Administered by the Department of Environmental Protection" (H.P. 1406) (L.D. 1986) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Laws Relating to and Administered by the Department of Environmental Protection" (H.P. 1681) (L.D. 2368)

Signed:

Senators: USHER of Cumberland  
EMERSON of Penobscot

Representatives: MICHAUD of Medway  
JACQUES of Waterville  
RIDLEY of Shapleigh  
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" on same Bill.

Signed:

Senator: KANY of Kennebec

Representatives: MITCHELL of Freeport  
COLES of Harpswell

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 Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I request a roll call.

As far as I know, this is the last 10-3 report you will see from the Natural Resources Committee this session. That might make you all happy.

This is a housekeeping bill that was brought to the Energy and Natural Resources Committee by the Department of Environmental Protection and basically made a number of really minor changes in the law. None of the changes in the law that the department

proposed are of any substance. They were all really technical changes.

The public hearing for the bill was held a couple of months ago and that was the bill that was presented. Then, on March 31st when we had a work session on the bill, there were a lot of amendments proposed. Some of those amendments were more than just technical changes in the law. For example, the position of the director of the four bureaus in the Department of Environmental Protection would be declassified under the Majority Report. Also all applications for wastewater discharge licenses are being delegated to the commissioner regardless of size and all subdivision applications are being designated to the commissioner regardless of size.

In my view, these are substantial changes in the law and changes that ought to be enacted only after public hearing and public debate. Since there was no public hearing and no public debate on these proposed changes in the law, I signed the "Ought to Pass" Report, which was the initial bill with its technical changes.

I would urge you all to also support the simple "Ought to Pass", not the "Ought to Pass as Amended." I don't think it helps our credibility here in the legislature to take a housekeeping bill like this and do other things to it. The purpose of a housekeeping bill after it's advertised as a housekeeping bill is to keep house and not to go out and make other changes in the law.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I am not going to take too much time. In addition to this being the last 10-3 report, it's not the usual one as Representative Mitchell has said. It's not really a disagreement over substance, it's a disagreement over process. Both the items that Representative Mitchell mentioned, the declassification of the bureau directors and the shifting of matters from the jurisdiction of the board to the commissioner may not be bad ideas. The problem is they have not received sufficient public discussion; in fact, they received practically no public discussion whatsoever and they received very little in committee.

An example of some of the questions that remain unanswered — when the board meets, everything it does now is a matter of public record. It is not clear whether the same is true when the commission meets and makes a decision. Board members right now are prohibited from meeting the parties of an application outside the formal framework of the board's proceedings. It is not clear that the commissioner would be subject to the same prohibitions. So, the commissioner may be in a position where he is meeting privately with some parties to an application and making a deal with them or discussing things with them, while other interested people, have no idea what's going on. Maybe this is a good idea, maybe it isn't. The problem is that no one has asked these questions.

The problem is that we rely on our committee process to explore issues thoroughly. In this instance, I have no doubt that that full exploration has not occurred. There is simply no need and no urgency to approving this bill this year. We can wait a year, we can discuss it with the Board of Environmental Protection. We could have had a public hearing if this had been submitted as a separate

bill, but it wasn't. If you wait a year, have a public hearing, we can ask the Board of Environmental Protection for their comments on the bill, we can ask interested citizens for their comments, we can work out a decent bill.

I urge you to give us that year and vote for the Minority Report tonight.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: In regard to declassification that has been discussed, that was in the so-called Trafton Commission Report with pages about so thick, let's put it in simple terms — like supposing I had a foreman working for me in the woods and he was in a position where he could tell me to go to the hot place. This is about where the situation is about now.

This would enable the commissioner to carry out his policies. As far as giving the commissioner some more work load and making decisions, they're always complaining over there that they have too much to do. This will expedite the process just a little bit.

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

Representative MICHAUD: Mr. Speaker, Men and Women of the House: Just briefly, Representative Dexter was correct. A few years ago we did have the Trafton Commission Report and basically what they recommended was that we declassify the bureau directors. It is only good management that the Department of Environmental Protection is basically the only department that I can think of that the directors are not declassified. As far as those items where we have given authority to the commissioner, that is correct, but in the statute currently, they have from A through K where the commissioner does have that authority, and those two extra items that we gave the commissioner, he already has the authority in that area.

The way the current law reads, as far as wastewater treatment, it is 100,000 gallons that we gave them for any wastewater treatment and the same goes for the site location that deals with 75 acres. The commissioner does have that authority.

The committee did meet with a full board a couple of weeks ago and it was a very good meeting. Some of the board members themselves feel that the board should be made, more or less, an appeals board. Rather than outright making them an appeals board, we transferred a few more applications to the commissioner.

The one other item that previous speakers mentioned is that, currently if a board member is on the board, the Governor, if he does not renominate or nominates someone else, he continues to stay on that board, and the problem we're having, we had one board member who was on there, whose term expired last March. We had another one last Fall, so the Governor has been dragging his feet on a lot of these nominations and what the committee did was, after a board member's term expired, the Governor will have 90 days to nominate or else that board member is no longer on the board.

With Representative Mitchell's input on that section, if there is a major application before the board, with written notification from the Governor, that member may stay on past that 90 days. Those three recommendations are basically only minor and I would hope that this House would go along with the

Majority "Ought to Pass."

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: I am little concerned what has been said. It appears to be "An Act to Amend the Laws Relating to the Administration of the Department of Environmental Protection," but as you read your bill in Section 1, sub-paragraph 4, I am a little puzzled to see -- what is a state purchasing agent, Director of Arts and Humanities, the Director of State Bureau, the Director of the Retirement System and the Director Alcoholic Beverages have to do with this bill? That is what I was very concerned about with this bill but now that there is an amendment -- maybe I am not too aware of the procedure in committee. The only thing I was concerned about is that I can't possibly see what is the Executive Director of the Retirement System and the State Director of Alcoholic Beverages got to do with setting their salaries under this type of bill?

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

Representative MICHAUD: Mr. Speaker, Men and Women of the House: In answering the Representative's question, this bill does not change that. Basically, where we put the Director of the Bureau of Air Quality, we just put him in that section. This does not change State Purchasing or the State Museum, that is currently present law. If you look at page 2, lines 6, 7, 8, 9, and 10 -- that's the added change so we're not changing anything else other than dealing with the Department of Environmental Protection.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: A brief response to what Representative Michaud mentioned to the membership, we're not contending or arguing about the membership portion of the bill, we arguing about the other two portions, the declassification and the change in jurisdiction from the board to the commissioner.

A brief comment on that meeting we had with the Board of Environmental Protection. This is an example of our basic argument. We did have a meeting with the board, it was a very good meeting. We discussed a lot of issues and we were very interested to hear their views on their work. However, we never once mentioned to them nor do I believe did they ever think that we were about to consider legislation which would change the nature of that work and how they work. I think that their impression was probably a meeting here and another later in the year would lead to some legislation next year to solve the problem. No one was saying we need some change right now, none of them were saying we can't last another month or two or even another year. As you may have noticed in the paper, the Chair of the Board made it very clear that he felt that they had not been consulted about this legislation at all. Once again, I hope you will support the Minority Report.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: The people on the other side of this debate are right about the Trafton Commission. It did recommend that those four positions should be declassified. If you will remember, the Trafton

Commission Report was issued in 1982 and had a number of very controversial recommendations about the board. They were presented to the committee at that time, they got a lot of public input and a lot of public debate and the committee decided not to implement that one particular recommendation of the Trafton Commission Report and several other recommendations of the Trafton Commission Report. There is a very large implication to what we're doing today.

Just as an example, I would like to take the water discharge section of this bill and just tell you what that means. Presently, all water discharge licenses over 100,000 gallons per day go to the board and those under 100,000 go to the commissioner for a decision. If this passes and there is a trout stream and it's not in your town, it's in the next town, and you happen to fish there, someone could apply for a discharge license for any size and they can discharge any amount of sewerage or water into that stream -- any amount at all. Unless you're an affected interest, you own land on the stream, which you don't if you live in the next town, you cannot ask for a public hearing on that particular license. So this is really a pretty far reaching measure that we're acting here. It has been given no public hearing. When the public hearing was held, it was a housekeeping bill, no one knew anything about these declassifications, they didn't know anything about these delegations of licenses to the commissioner. We're doing a lot and the people don't know anything about it.

Now maybe it's a good idea, maybe it isn't a good idea. I frankly have mixed feelings about declassification but I don't think we should do them in the last few days of this legislature without some public input. I think we ought to can them, accept the Minority Report and come back here next year and have a public hearing on these issues. It is not going to hurt anyone. It is only seven or eight or nine months away and it's not going to make a lot of difference. I hope you will vote against the motion.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: A couple of points I would like to make as a signer of the Majority Report. Number one -- you have been hearing a lot lately about some of the decisions the board has made and the excuse we always get is that they just have too much work. One of the things that the committee asked the board was to come out with some recommendations that would free them up from some of these smaller issues and let them do a real good job at the job they're supposed to do. Some of the suggestions that came to us are in this bill. I personally don't see anything wrong with that.

Representative Mitchell talks about us changing this bill around -- it was just a minor housekeeping bill -- well I have never seen a minor housekeeping bill in the eight years I have been here and all you've got to do is start looking at some bills. You come in here, have a public hearing, not only did we change the bill, we changed the title. In the bill we had the public hearing on and the bill that we passed out of committee are nowhere near alike, not in any way, shape or form. Nobody says anything about that, that is a common occurrence in the legislature because once that bill is heard by that

committee, it becomes the property of that committee to do what they feel is best and that's what a majority of that committee did. We did things that we hoped would improve the Department of Environmental Protection, not next year, today and now. That's why we made those changes.

As far as wastewater discharge -- the commissioner was there and he assured us that any party that felt that they had been slighted would have a chance to have a public hearing before him. Another thing that could happen is that they could use the board now as an appeals board. This is just something that could be done as a matter of hand -- it's usually a million different little problems that come up, that the board would normally have that the commissioner felt that he could do. We asked him if he felt he could do the job adequately, and I might remind you, the commission is the one that has the technical qualifications. Most of these board members, including our illustrious chairman of the board, are citizen members of that board. His qualification is that he is a junk dealer, with no bad reflections to the gentleman, but he called our committee incapable of making decisions. Our committee has been making policy decisions in the eight years that I have been down here and I think that the chairman of the present board was a little out of line when he said we weren't qualified because, if being a junk dealer was qualified, we could have Fred Sanford serving on the board and he could be making those decisions.

I hope that you would go with the Majority Report. It makes good sense to improve the department now, not when it's too late to improve the department.

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 the Representative from Medway, Representative Michaud, that the House accept Majority "Ought To Pass" in New Draft. Those in favor will vote yes; those opposed will vote no.

111 having voted in the affirmative and 20 in the negative with 20 being absent, the Majority "Ought to Pass" in New Draft was accepted, the New Draft read once and assigned for second reading tomorrow.

(See Roll Call No. 290)

The Chair laid before the House the following matter: Bill "An Act to Establish Policies Governing Medical Malpractice Claims" (S.P. 773) (L.D. 1945) which was tabled earlier in the day and later today assigned pending the motion of Representative Allen of Washington that the House reconsider its action whereby L.D. 1945 was passed to be engrossed.

Representative Allen of Washington withdrew her motion to reconsider.

Representative Jackson of Harrison moved the House reconsider its action whereby L.D. 1945 was passed to be engrossed.

The same Representative moved that this item be

tabled one legislative day pending his motion to reconsider.

Representative Diamond of Bangor requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Jackson of Harrison that this matter be tabled one legislative day. Those in favor will vote yes; those opposed will vote no.

59 having voted in the affirmative and 73 in the negative with 19 being absent, the motion to table one legislative day did not prevail.

(See Roll Call No. 291)

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker, Men and Women of the House: Yesterday we debated this bill and the vote that this body gave that legislation was very heavy and very hefty. I do appreciate the support that the members of this body gave on that vote.

I moved to reconsider and table the bill this evening because I wanted to hold this bill here in this body for one day at least so we could see what action was going to take place in the Judiciary Committee with a companion bill which will be arriving in this body sometime in the next day or two. I felt that it was apparent yesterday in the vote that this body took that there is a concern for medical malpractice insurance, the availability and the cost of it in this state. You responded to that concern with the bill that was before us. That bill had a limit on contingency fees in it and it also had a cap. I felt yesterday that the vote was in response to those two proposals that were in that bill -- the contingency fees and the cap. I think very strongly that it is important that any medical malpractice bill that we pass here this year carry the cap on pain and suffering.

I represent a small community and a small community hospital. That hospital has lost three of its physicians in the last year. Representative Walker represents a community which also has a small community hospital and I understand that hospital has lost three physicians. If we don't respond and if we don't put a cap on the medical malpractice issue, it's apparent to me that we're going to lose more physicians. That hospital that provides services to my constituents and to many other people in the State of Maine will probably end up to being nothing more than a nursing home. I don't think that's what we want. I don't think that's what we want for our rural communities in this state. That's why I wanted to table this bill this evening so I would have an opportunity to discuss another proposal with the representatives of the hospital that's in my district and see if we couldn't arrive to some area of compromise but it was apparent to me by the vote this evening that we're not going to have that opportunity



to table this for further consideration.

There is no issue that's going to be before us, we're going to lose it this evening and we probably will not see the caps again unless it's an amendment to another proposal. I felt that this bill should be a companion bill to the other proposal and I would have liked to have it tabled this evening. Mr. Speaker, I withdraw my motion.

The Speaker: The Representative from Harrison withdraws his motion to reconsider.

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(Off Record Remarks)

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On motion of Representative MacBride of Presque Isle,

Adjourned until Friday, April 11, 1986, at eight-thirty in the morning in memory of Harland Welch.

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