

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act Concerning the Liability for Damages of Persons Operating a Truck with an Uncovered Load" H.P. 302 L.D. 388

Tabled - February 24, 1987, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION

(In House, February 18, 1987, referred to the Committee on TRANSPORTATION and ORDERED PRINTED.)

(In Senate, February 19, 1987, referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED in NON-CONCURRENCE.)

(In House, February 23, 1987, that Body INSISTED.)

On motion by Senator CLARK of Cumberland, the Senate RECEDED and CONCURRED.

Senator CLARK of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator DOW of Kennebec, ADJOURNED until Tuesday, March 24, 1987, at 9:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
36th Legislative Day
Tuesday, March 24, 1987

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

Prayer by Reverend Edward Baltzersen, Emmaus Lutheran Church, Falmouth.

The Journal of Monday, March 23, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS

The following Communication:
MAINE STATE SENATE
AUGUSTA, MAINE 04333

March 23, 1987

The Honorable John L. Martin
Speaker of the House
113th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Business Legislation, the Governor's nomination of Hobart F. Harnden of South Portland for appointment to the Maine Real Estate Commission.

Hobart F. Harnden is replacing Dennis Soucy.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate
Was read and ordered placed on file.

The following Communication:
MAINE STATE SENATE
AUGUSTA, MAINE 04333

March 23, 1987

The Honorable John L. Martin
Speaker of the House
113th Legislature
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Marine Resources, the Governor's nomination of Jeffrey H. Kaelin of Winterport for appointment to the Marine Resources Advisory Council.

Jeffrey H. Kaelin is replacing Peter Inniss.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Provide Funds for Winterization Projects in Piscataquis and Penobscot Counties" (S.P. 301) (L.D. 870)

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

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

Bill "An Act Relating to the State Subdivision Law" (S.P. 300) (L.D. 869)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Revise the Procedures for the Enforcement of Money Judgments" (S.P. 305) (L.D. 874)

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

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Increase the Threshold for Fuel Tax Licensing" (S.P. 302) (L.D. 871)

Bill "An Act Relating to Out-of-service Vehicles" (S.P. 303) (L.D. 872)

Bill "An Act Enabling the State to Join the Regional Truck Permit Agreement" (S.P. 304) (L.D. 873)

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

Were referred to the Committee on Transportation in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Transportation reporting "Leave to Withdraw" on Bill "An Act Regarding Temporary Railroad Crossings" (S.P. 48) (L.D. 97)

Report of the Committee on Transportation reporting "Leave to Withdraw" on Bill "An Act to Require that Street Addresses Appear on the Drivers License" (S.P. 49) (L.D. 98)

Report of the Committee on Utilities reporting "Leave to Withdraw" on Bill "An Act to Allow for Depreciation on Contributed Property" (S.P. 60) (L.D. 127)

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

Non-Concurrent Matter

Bill "An Act Relating to the State Board of Arbitration and Conciliation" (H.P. 300) (L.D. 386) which was passed to be engrossed in the House on March 19, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-11) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Establish a Bakery and Milk Products Container Law" (H.P. 603) (L.D. 821) which was referred to the Committee on Agriculture in the House on March 19, 1987.

Came from the Senate referred to the Committee on Business Legislation in non-concurrence.

The House voted to recede and concur.

PETITIONS, BILLS AND RESOLVES

REQUIRING REFERENCE

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

Aging, Retirement and Veterans

Bill "An Act to Amend the Maine State Retirement System" (H.P. 672) (L.D. 905) (Presented by Representative PINES of Limestone) (Cosponsor: Representative DELLERT of Gardiner)

Ordered Printed.

Sent up for Concurrence.

Agriculture

Bill "An Act to Encourage Investment in the Development of Potato Varieties" (H.P. 678) (L.D. 911) (Presented by Representative MAHANY of Easton) (Cosponsors: Representative PINES of Limestone and Senator COLLINS of Aroostook)

Bill "An Act Regarding the Maine Agricultural Marketing and Bargaining Act of 1973" (H.P. 679) (L.D. 912) (Presented by Representative LISNIK of Presque Isle) (Cosponsors: Speaker MARTIN of Eagle Lake, Representative MAHANY of Easton, and President PRAY of Penobscot)

Ordered Printed.

Sent up for Concurrence.

Business Legislation

Bill "An Act to Extend Maine's Bottle Bill" (H.P. 662) (L.D. 895) (Presented by Representative MAHANY of Easton) (Cosponsors: Senators ANDREWS of Cumberland, LUDWIG of Aroostook and Representative STANLEY of Cumberland)

Bill "An Act to Mandate Rustproofing Designation of Motor Vehicles" (H.P. 668) (L.D. 901) (Presented by Representative BOUTILIER of Lewiston) (Cosponsors: Representatives CROWLEY of Stockton Springs, ALLEN of Washington and Senator PERKINS of Hancock)

Ordered Printed.

Sent up for Concurrence.

Education

Bill "An Act to Allow Per Pupil Reimbursement to School Administrative Units for Home Instruction Pupils" (H.P. 659) (L.D. 892) (Presented by Representative CASHMAN of Old Town) (Cosponsors: Representatives BOST of Orono, PARADIS of Old Town and Senator PEARSON of Penobscot)

Bill "An Act to Amend the Tuition Computation Rate for Secondary Schools" (H.P. 673) (L.D. 906) (Presented by Representative BOTT of Orono) (Cosponsor: Senator MAYBURY of Penobscot)

Ordered Printed.

Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Insure Clean-up Capability by Persons Undertaking Movement of Hazardous Materials" (H.P. 667) (L.D. 900) (Presented by Representative PARADIS of Old Town) (Cosponsor: Senator PERKINS of Hancock)

Bill "An Act to Clarify Definition Language under the Site Location of Development Laws" (H.P. 670) (L.D. 903) (Presented by Representative STEVENS of Bangor) (Cosponsors: Representatives HOGLUND of Portland, MICHAUD of East Millinocket and Senator USHER of Cumberland)

Bill "An Act Relating to Allowing Local Planning Boards to Require a Subdivision Applicant to Set Aside 20% of Lots to be Sold at 25% Below Fair Market Value" (H.P. 676) (L.D. 909) (Presented by Representative WARREN of Scarborough) (Cosponsors: Senator ANDREWS of Cumberland and Representative NADEAU of Saco)

Ordered Printed.
Sent up for Concurrence.

Fisheries and Wildlife

Bill "An Act to Ban Waterskiing on Certain Parts of the Saco River" (H.P. 669) (L.D. 902) (Presented by Representative WARREN of Scarborough) (Cosponsors: Representatives DUFFY of Bangor and SMITH of Island Falls)

Bill "An Act to Extend the Freshwater Fishing Season for Nongame Fish in Southern Maine" (H.P. 660) (L.D. 893) (Presented by Representative GREENLAW of Standish)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Require Notice of the Smoking Policy in Restaurants" (H.P. 664) (L.D. 897) (Presented by Representative MANNING of Portland) (Cosponsor: Representative PINES of Limestone)

RESOLVE, Reestablishing the Maine Commission on the Role of State Government in Providing Independent Living Opportunities and Services to Disabled Persons (H.P. 677) (L.D. 910) (Presented by Representative MELENDY of Rockland) (Cosponsors: Senator BUSTIN of Kennebec, Representatives TRACY of Rome and MANNING of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Limit Personal Liability of Volunteer Firemen and Volunteer Ambulance Drivers" (Emergency) (H.P. 674) (L.D. 907) (Presented by Representative KILKELLY of Wiscasset) (Cosponsors: Representative COLES of Harpswell, Senators CAHILL of Sagadahoc and SEWALL of Lincoln)

Bill "An Act to Regulate the Removal of Children of Divorced or Separated Families from the State" (H.P. 675) (L.D. 908) (Presented by Representative WARREN of Scarborough) (By Request)

Bill "An Act to Lengthen the Period of Probation for Persons Convicted of Sex Offenses" (H.P. 658) (L.D. 891) (Presented by Representative ANTHONY of South Portland) (Cosponsors: Senators GILL of Cumberland, BRANNIGAN of Cumberland, and Representative KIMBALL of Buxton)

Bill "An Act Relating to the Relocation of the Southern Division of the 10th District Court" (H.P. 665) (L.D. 898) (Presented by Representative McPHERSON of Eliot) (Cosponsor: Representative ROLDE of York)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Clarify the Discrimination Provision of the Workers' Compensation Act so that Injured Workers may Pursue their Rights without Fear of Punishment by their Employers" (H.P. 666) (L.D. 899) (Presented by Representative MICHAUD of East Millinocket) (Cosponsors: Representatives PRIEST of Brunswick, CLARK of Millinocket and Senator USHER of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act Concerning Prizes Awarded by Charitable Organizations" (H.P. 663) (L.D. 896) (Presented by Representative MANNING of Portland) (Cosponsors: Senators DUTREMBLE of York, DILLENBACK of Cumberland and Representative HOLLOWAY of Edgecomb)

Bill "An Act to Regulate Political Advertising in Public Right-of-way Areas" (H.P. 671) (L.D. 904) (Presented by Representative PARADIS of Augusta)

Ordered Printed.
Sent up for Concurrence.

Marine Resources

Bill "An Act Concerning Hand Fishing for Scallops" (H.P. 661) (L.D. 894) (Presented by Representative GREENLAW of Standish)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act to Require the Use of Seat Belts in Driver Education Programs" (H.P. 657) (L.D. 890) (Presented by Representative REEVES of Pittston) (Cosponsors: Representatives BOST of Orono, PINES of Limestone, and CARROLL of Gray)

Ordered Printed.
Sent up for Concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:
Recognizing:

The return, after 124 years, of the clipper ship Snow Squall, a great lady which succumbed to a storm in the Falkland Islands in 1864 and is being returned through the efforts of E. Fred Yalouris and his crew and the Spring Point Museum of South Portland; (HLS 168) by Representative ANTHONY of South Portland. (Cosponsor: Senator GILL of Cumberland)

On motion of Representative Anthony of South Portland, was removed from the Special Sentiment Calendar.

Was read.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: Maine is rightfully proud of its heritage as the builder of ships of all sizes and types. Among the fastest and most beautiful of those sailing ships was the clipper ship built by the dozens in Maine in the mid-19th Century. It was not unusual for a Maine built clipper to pay for herself on her maiden voyage, so capable and fast were they.

The 742 ton clipper ship, Snow Squall, was such a ship. She was built in South Portland in 1851 and, for the next 13 years, was engaged in trade with the Orient, principally in tea. Noted for her speed, she once sailed over 360 miles in a 24 hour period. She also was one of the few ships ever to outrun the Confederate Raider, Tuscaloosa, in 1862.

Alas, the following year, she was damaged rounding Cape Horn in a storm and had to be abandoned in Port Stanley in the Falkland Islands. There she has remained in the mud ever since, seemingly a sad end to a great lady. However, five years ago, a group of Mainers, headed by South Portland native, Fred Yalouris, began a major effort to return the remains of that once beautiful hull to our state so that all might know of her beauty and her speed. During five expeditions to the Falklands, she has

been measured, marked, taken apart, and removed piece by piece. The last remaining salvageable portion, the bow section, was retrieved about a month ago, and on Tuesday of last week, was returned to the port of her birth, South Portland.

A new museum has been established on the grounds of Southern Maine Vocational-Technical Institute, the Spring Point Museum and there the Snow Squall will be carefully reconstructed with the help of volunteer labor and the financial contributions of a great many Mainers.

In the not too distant future, the Spring Point Museum will become another point of interest on our maps and guide books. The many visitors to our state will have yet another way to learn about the contributions of Mainers to our country and to our world. We can all be grateful for this work. It is only fitting then that we should pause to recognize the return of this great lady, the clipper ship, Snow Squall, after a 123 year absence.

Subsequently, was passed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative HICKEY from the Committee on Aging, Retirement and Veterans on Bill "An Act to Make Maine State Retirement System Membership Optional for Employees in Participating Local Districts that Establish an Alternative Pension System" (H.P. 281) (L.D. 364) reporting "Ought Not to Pass"

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

CONSENT CALENDAR

First Day

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

(H.P. 365) (L.D. 479) Bill "An Act to Validate and Approve the School Construction Proceedings of Maine School Administrative District No. 42" (Emergency) Committee on Education reporting "Ought to Pass"

(S.P. 77) (L.D. 163) Bill "An Act to Amend the Piscataquis County Budget Committee Procedures" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-6)

(S.P. 187) (L.D. 514) RESOLVE, to Continue the Commission to Study the Integration of the Maine State Retirement System with the United States Social Security System (Emergency) Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-5)

(S.P. 141) (L.D. 395) Bill "An Act to Clarify Municipal Liability for Certain Vehicular Accidents" Committee on Judiciary reporting "Ought to Pass"

(H.P. 104) (L.D. 114) Bill "An Act to Provide a Trade-in-credit for Camper Trailers" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-37)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 25, 1987, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 49) (L.D. 52) Bill "An Act Regarding Motor Vehicle Accident Reports" (C. "A" H-36)

(S.P. 106) (L.D. 279) Bill "An Act to Clarify the Law Regarding Expedited Charter Conversions, Mergers and Consolidations"

(S.P. 97) (L.D. 244) Bill "An Act Concerning the Purchase of School Buses" (C. "A" S-4)

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

PASSED TO BE ENACTED

Emergency Measure

An Act Concerning the Provision of Legal Services by Eligible Law Students (H.P. 148) (L.D. 189) (C. "A" H-19)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Extend the Sunset Date for Certain Statutes Regarding Harbor Masters (H.P. 246) (L.D. 316)

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

PASSED TO BE ENACTED

An Act to Make Lien Fees Consistent for Sewer Assessments and Real Property Taxes (H.P. 138) (L.D. 179)

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.

ORDERS OF THE DAY

UNFINISHED BUSINESS

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

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

Bill "An Act Relating to the Social Services Transportation Review Committee" (Emergency) (H.P. 99) (L.D. 109)

- In House, Passed to be Engrossed on March 17, 1987.
- In Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-9) in non-concurrence.

TABLED - March 23, 1987 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Further Consideration.

The House voted to recede and concur.

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

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (H-32) - Minority (6) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Repeal the Authority of County Commissioners to Order the Repair of Ways Maintained by a Municipality" (H.P. 68) (L.D. 71)

TABLED - March 23, 1987 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Acceptance of Either Report.

Representative Carroll of Gray moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Athens, Representative Rotondi.

Representative ROTONDI: Mr. Speaker, Ladies and Gentlemen of the House: I move we indefinitely postpone this bill and all its accompanying papers.

First, I think everyone should know that the first report of the State and Local Government Committee, when we first voted, was a unanimous "Ought Not to Pass" Report.

The amendment to this bill, in my opinion, doesn't do anything. I believe that we are voting on the original bill here. Though there are many very good selectmen, they do their jobs very well, there are many who are inexperienced and novice and sometimes they get too involved and taken up with personalities. Part of the County Commissioners obligation has always been to be an alternative for property tax owners who are not satisfied with the final decision by elected selectmen.

I might add that this appeals process is one that the County Commissioners wish to retain as part of their job. To deprive a town citizen of another freedom only strengthens his belief in the irresponsibility of legislators, who are elected to protect their rights and their freedoms.

I would also request a roll call, Mr. Speaker.

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

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think that there might be a number of people in here that really don't understand what this bill is all about. I would like to explain what experience I have had with it.

After doing that, I would hope that you would go along with the indefinite postponement.

I think the biggest thing in this bill that I disagree with is, especially in the small towns, it is a second recourse for the individuals that live in that town. I have seen this work on several occasions when it comes to town roads, where they might get plugged up with snow in the winter time and the town doesn't take appropriate action to keep them plowed out or keep them widened out where they should be or, in the springtime, when you have muddy roads -- it gives the individuals that live in these towns another source to go to if they aren't satisfied with what is going on in the town. They can go to the County Commissioners and petition them because their road isn't plowed and the selectmen of the town that don't take appropriate steps to correct it and, by being able to go to the County Commissioners, they can look the situation over and order that the road be cleared out or repaired. If the town doesn't do it, then they can order it done and they will bill the town for it.

It doesn't come into play very often but I think the selectmen are aware of this situation and it might be just that alone that would move them to take

appropriate steps on some of these road conditions that we have, especially in the spring of the year, where mud is concerned. Then they might make a little extra effort to get them fixed up so these people won't go to the County Commissioners and get a ruling from them. So, I don't see where it does any great harm in leaving it on the books as it is now. It gives the individual residents in the towns just a little bit of an edge that might be the means of getting their roads taken care of or not taken care of.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I rise this morning to agree partly with the previous two speakers. However, when MMA asked to sponsor this bill, it does exactly what the gentleman from Shapleigh has stated.

The original bill would give the authority of the selectmen, road commissioner, and the legislative body, to make those decisions. What the committee came out with in an amendment, in effect, only says that when the legislative body of a municipality votes not to do a particular program because of monies set aside and I use the example that we have tried to work with the last few years. We are trying, in these small communities in the state, to come up with a road program to try to spread our monies out so that we can do the projects that we want to do and try to control our tax rate. What I am saying to you today is, that a town like ours, that has put together a five year road program and maybe road-Z out there is scheduled to be done in 1988, because we don't have the money to do it in 1987, we would like to have the chance to do that road without being overridden by the County Commission. That is what the amendment says.

The amendment says that when the legislative body has said, no, we can't do that this year, this would not allow the County Commissioners to override it.

One thing that might be mentioned here today is on the maintenance of the roads. I can assure you right now that the town's liability is at stake right now if the municipality doesn't fill the potholes or doesn't take care of the maintenance problem. We are not talking about the everyday maintenance. What we are talking about is roads out there that have been built, maybe a half a mile or so and there is another half a mile to be built, we want the flexibility to do that as our money allows it.

Another good example is that, if the municipality has voted not to maintain a piece of road in the winter and the town has voted that way, we don't want the County Commissioners coming in and overriding.

I will tell you with the original bill, the County Commissioners were opposed to it. The amendment -- I have heard nothing from my County Commissioners and that is usually a pretty good sign that they can live with it.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: The original bill, as proposed, as you have heard, did take the role of the County Commissioners from this appeal process. However, the amendment does not take the authority of the County Commissioners from this procedure, it merely excludes that in a municipality, when the municipality by its legislative body, which would be either your town meeting or action by its council, has made provisions to look after that road or have taken a definite stand on the road. The Commissioners would not have the authority to entertain a hearing on that particular road. This is

a recognition of the home rule right of municipalities and, unless this is done, it would be diametrically opposed to the right of home rule for the municipalities. The Commissioners will still have the right to entertain hearings on other than those roads that have not been addressed by the legislative body.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of the motion for indefinite postponement. What this debate is all about is whether or not there ought to be a forum that people can go to, namely the County Commissioners, when they are dissatisfied with their local town officials in their decisions about their roads.

It is true that, with the amendment, it would allow the County Commissioners to act except when there is, what they call a legislative body, has taken a position. A legislative body is either the town meeting or the town council or city council. In those communities that have a council form of government and the council has decided not to fix up the road, the person who feels unhappy with that has no place to turn except to hire a lawyer and go to court. It seems to me that it makes good sense to allow people an avenue for a simple appeal process to the County Commissioners. Would those County Commissioners overturn the town council or the town meeting? I doubt very much that they would do that. Surely they could, but I believe we have to have a certain amount of trust in the County Commissioners that they would look into the matter and if there was, for instance, a town meeting that has decided, after careful consideration, not to do a road this year but to do it next year, I have faith that those County Commissioners would not order that road repaired.

The problem I have with supporting the version as amended is, it goes way beyond that and it takes away the power for the County Commissioners to act in any situation where there has been a town council discussing that particular road. It seems to me it makes good sense to give people a place to turn for an appeal and the County Commissioners is the logical place for that.

I would support the motion for postponement.

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

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: This bill, with the amendment, changes nothing in the original bill. It merely maintains the right of the town to exercise home rule in something that has already been setting priorities on their road program.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of the indefinite postponement of this L.D. and all its accompanying papers.

I do believe it does take away from the people in a municipality the right to appeal to a higher board. I speak from experience as a municipal officer. We do have a five year capital improvement plan -- each year you address your current needs and propose needs for the next four years and, in many cases, roads are put off for one, two, three and four years. This would give the people of a municipality another avenue to explore to have their roads repaired.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

Has there been a problem out there with this law as it is now, in order for this bill to be before us?

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

The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the question is that there have been situations in some municipalities where the legislative body has voted not to repair or do the construction work at a particular time because of the shortage of funds and the Commissioners have come in and overruled that municipality.

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

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think there is a little misconception here. What I am concerned with and I will give you a specific example -- in the town that I live in, there is a road that we call the Owls Nest Road that runs up into the woods some three or four miles. We have been working on that road for several years trying to reconstruct it and I have no problem with that and I realize that you can't do the whole road all at once. But we had a gentleman that lived up at the end of that road that raised chickens and we had a very severe snowstorm and he ran out of grain. The town didn't have any equipment to break the road out or plow it out. They could get over the part that had been reconstructed but there was probably a mile of it left to this fellow's place where he had the chicken operation going on and they just couldn't get in there. The town tried to get in there the best that they could, but these chickens had run out of grain and they were going to, I guess, start to starve to death before long. Well, they went to the County Commissioners and the County Commissioners ordered that someone come in there with a V-plow and bulldozer and break that road out so they could get grain and feed to those chickens. These are the kind of situations that I am concerned about. It is not on reconstruction or whether you are going to appropriate a little money every year to complete some road -- what do you do in the meantime, with the people on the other end of that road and they get into a situation because of snow, mud, or big holes that they can't get in there -- it gives them another recourse where they can go to the County Commissioners and they can tell the selectmen in the town, look, get up there and fix that road. They are not talking about the ordinary potholes that appear in the road or some guy wants his road fixed up so it is like the main drag through town. I don't think this is the main cause of opposing this bill -- it is for those extenuating circumstances where maybe the town isn't doing just what they ought to be doing as far as breaking the road out so they can get in and out.

Also, as I understand it, if the town accepts a road as a town way, they are obligated by state statute to keep that road passable so the people can get in and out. I am wondering if it would be in direct conflict with this.

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

Representative DUTREMBLE: Mr. Speaker, Members of the House: As a past County Commissioner for 15 years and now as a councilman for the city of Biddeford, I would wish you would go along with this motion to indefinitely postpone this bill.

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 Athens, Representative Rotondi, that L.D. 71 be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 9

YEA - Allen, Anderson, Anthony, Armstrong, Bailey, Bickford, Bost, Bott, Bragg, Brown, Chonko, Clark, M.; Coles, Connolly, Cote, Dexter, Dore, Dutremble, L.; Erwin, P.; Farren, Foster, Hale, Hanley, Hepburn, Hichborn, Hickey, Hillock, Hognlund, Holloway, Jackson, Jacques, Joseph, Ketover, Lacroix, Lisnik, Mahany, Martin, H.; McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, Moholland, Murphy, E.; Nadeau, G. R.; Nutting, O'Gara, Paradis, E.; Paul, Pouliot, Rand, Ridley, Rolde, Rotondi, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, A.; Stevens, P.; Swazey, Tammaro, Tracy, Vose, Walker, Warren, Weymouth.

NAY - Aliberti, Baker, Begley, Boutilier, Callahan, Carroll, Carter, Clark, H.; Conley, Crowley, Curran, Dellert, Diamond, Duffy, Farnum, Foss, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Handy, Harper, Higgins, Holt, Hussey, Ingraham, Jalbert, Kimball, LaPointe, Lawrence, Lebowitz, Look, Lord, MacBride, Macomber, Manning, Marsano, Matthews, K.; Mayo, McPherson, Mills, Murphy, T.; Nicholson, Norton, Paradis, J.; Parent, Perry, Pines, Priest, Racine, Reed, Rice, Richard, Ruhlin, Salisbury, Seavey, Sherburne, Small, Sproul, Stanley, Stevenson, Strout, B.; Strout, D.; Tardy, Taylor, Telow, Thistle, Tupper, Webster, M.; Wentworth, Whitcomb, Willey, Zirnkilton.

ABSENT - Cashman, Davis, Kilkelly, Nadeau, G. G.; Paradis, P.; Reeves, The Speaker.

Yes, 70; No, 74; Absent, 7; Paired, 0; Excused, 0.

70 having voted in the affirmative and 74 in the negative with 7 being absent, the motion did not prevail.

Subsequently, on motion of Representative Carroll of Gray, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-32) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, March 25, 1987.

Tabled and Today Assigned

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

Bill "An Act to Assure Access to Legal Assistance by Residents of Rural Areas" (S.P. 294) (L.D. 844)

- In Senate, Referred to the Committee on Judiciary.

TABLED - March 23, 1987 by Representative GWADOSKY of Fairfield.

PENDING - Motion of same Representative to Reconsider Reference to the Committee on Judiciary in concurrence.

Subsequently, on motion of Representative Gwadosky of Fairfield, the House voted to reconsider its action whereby L.D. 844 was referred to the Committee on Judiciary in concurrence.

On further motion of the same Representative, was referred to the Committee on Appropriations and Financial Affairs in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Telow of Lewiston, Adjourned until Wednesday, March 25, 1987, at nine o'clock in the morning.