

# 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

**ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
69th Legislative Day  
Monday, May 18, 1987**

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

Prayer by Reverend Mary Angela Davis, New Gloucester Congregational Church, United Church of Christ.

National Anthem by the Hermon High School Band.

The Journal of Friday, May 15, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS

Bill "An Act to Authorize the Department of Administration to Defend and Indemnify Architects and Engineers for Asbestos-related Claims Arising out of Public Improvement Contracts" (Emergency) (S.P. 526) (L.D. 1578)

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

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

Was referred to the Committee on Banking and Insurance in concurrence.

PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE

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

Agriculture

Bill "An Act to Continue the Potato Marketing Advisory Program" (H.P. 1183) (L.D. 1613) (Presented by Representative WHITCOMB of Waldo) (Cosponsors: Representative NUTTING of Leeds, Senators TWITCHELL of Oxford and BLACK of Cumberland)

Bill "An Act to Lower Milk Prices by Regulating Maximum Retail Milk Pricing Margins" (H.P. 1184) (L.D. 1614) (Presented by Representative NUTTING of Leeds) (Cosponsors: Representatives BOUTILIER of Lewiston, ALLEN of Washington and Senator MATTHEWS of Kennebec)

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, are these bills in violation of Joint Rule 24?

The SPEAKER: In reference to L.D. 1613, the Chair would rule that it is properly before the body. The bill does contain that it is a Governor's bill and, therefore, not in violation of Joint Rule 24.

In reference to L.D. 1614, the Chair would rule that it is properly before the body, this being a corrected bill, the original bill having been improperly introduced last week.

Subsequently, were referred to the Committee on Agriculture, ordered printed and sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act to Amend the Maine Vocational-Technical Institute System Laws" (Emergency) (H.P. 1185) (L.D. 1615) (Presented by Representative GWADOSKY of Fairfield) (Cosponsors: Senators PERKINS of Hancock, PEARSON of Penobscot and Representative CARTER of Winslow) (Approved for

introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.

Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Extend and Strengthen the State's Mandatory Shoreland Zoning Laws" (H.P. 1187) (L.D. 1617) (Presented by Representative MURPHY of Kennebunk) (Cosponsors: Senators GOULD of Waldo and TUTTLE of York)

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, is this bill in violation of Joint Rule 24?

The SPEAKER: In reference to L.D. 1187, the Chair would rule that it is properly before the body. The bill does contain that it is a Governor's Bill on the jacket and, therefore, not in violation of Joint Rule 24.

Subsequently, was referred to the Committee on Energy and Natural Resources, ordered printed and sent up for concurrence.

Human Resources

Bill "An Act to Authorize Hospitals to Use Magnetic Resonance Imaging Devices Located in Private Physicians' Facilities" (H.P. 1181) (L.D. 1611) (Presented by Representative BOUTILIER of Lewiston) (Cosponsors: Representative ROLDE of York, Speaker MARTIN of Eagle Lake and President PRAY of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.

Sent up for Concurrence.

Bill "An Act to Clarify the Offense of Driving under the Influence of Illegal Drugs" (H.P. 1188) (L.D. 1618) (Presented by Representative WARREN of Scarborough) (Cosponsors: Representatives MacBRIDE of Presque Isle, LEBOWITZ of Bangor and STEVENSON of Unity)

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, is this bill in violation of Joint Rule 24?

The SPEAKER: The Chair would answer in the affirmative and the matter is not properly before the body.

Bill "An Act to Clarify the Organizational Status of the Bureau of Lottery within the Department of Finance" (H.P. 1186) (L.D. 1616) (Presented by Representative ARMSTRONG of Wilton) (Cosponsors: Representatives PRIEST of Brunswick and MURPHY of Kennebunk) (Submitted by the Department of Finance pursuant to Joint Rule 24)

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, is this bill in violation of Joint Rule 24?

The SPEAKER: The Chair would answer in the affirmative and the matter is not properly before the body.

Utilities

Bill "An Act to Exempt the York Water District from Payment for Certain Improvements" (H.P. 1182) (L.D. 1612) (Presented by Representative ROLDE of York) (Cosponsor: Representative McPHERSON of Eliot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.  
Sent up for Concurrence.

ORDERS

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

ORDERED, that Representative Joseph G. Walker of Norway be excused May 12 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Ronald C. Bailey of Farmington be excused May 12 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Kerry E. Kimball of Buxton be excused May 14 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Leland C. Davis, Jr., of Monmouth be excused May 14 and 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Walter E. Whitcomb of Waldo be excused May 6, 7 and 8 for legislative business.

AND BE IT FURTHER ORDERED, that Representative David G. Stanley of Cumberland be excused May 12 for legislative business.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Expand the Number of Elder Volunteers Working in Areas of Literacy and In-home Support for Families in the Retired Senior Volunteer Programs, Foster Grandparent Programs and Senior Companion Program" (H.P. 107) (L.D. 117) reporting "Ought Not to Pass"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Amend the Laws Relating to Cosmetology License Requirements" (H.P. 508) (L.D. 681) reporting "Ought Not to Pass"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Exempt Certain Restaurants from Restroom Requirements" (H.P. 695) (L.D. 936) reporting "Ought Not to Pass"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Amend the Law Pertaining to Labeling Medication Prescriptions" (H.P. 583) (L.D. 794) reporting "Ought Not to Pass"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Require Public Rest Rooms in Certain Businesses" (H.P. 753) (L.D. 1016) reporting "Ought Not to Pass"

Representative STROUT from the Committee on Transportation on Bill "An Act Concerning the Liability for Damages of Persons Operating a Truck with an Uncovered Load" (H.P. 302) (L.D. 388) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative NADEAU from the Committee on Appropriations and Financial Affairs on Bill "An Act to Assure Full Funding for Home-based Family Services" (H.P. 319) (L.D. 418) reporting "Leave to Withdraw"

Representative RICHARD from the Committee on Utilities on Bill "An Act to Amend the Charter of Searsport Water District" (H.P. 874) (L.D. 1175) reporting "Leave to Withdraw"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Require Retail Sellers of Gasoline to Post both Full-service and Self-service Prices" (H.P. 469) (L.D. 636) reporting "Leave to Withdraw"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Exempt Certain Signs from the Billboard Law" (H.P. 516) (L.D. 689) reporting "Leave to Withdraw"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Establish a Bakery and Milk Products Container Law" (H.P. 603) (L.D. 821) reporting "Leave to Withdraw"

Representative JACQUES from the Committee on Fisheries and Wildlife on Bill "An Act Regarding Posting of Private Land" (H.P. 910) (L.D. 1222) reporting "Leave to Withdraw"

Representative TARDY from the Committee on Agriculture on Bill "An Act Relating to the Labeling of Milk" (H.P. 620) (L.D. 839) reporting "Leave to Withdraw"

Representative TARDY from the Committee on Agriculture on Bill "An Act to Create an Agricultural Market Research and Development Fund Program" (H.P. 1134) (L.D. 1544) reporting "Leave to Withdraw"

Representative CARROLL from the Committee on Economic Development on Bill "An Act to Create a Small Business Ombudsman" (H.P. 126) (L.D. 152) reporting "Leave to Withdraw"

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Reduce the Burden of Property Taxes on Persons Who are Elderly and to Count the Years 1983, 1984 and 1985 when the Income Allowance was not Increased with the Increase in Social Security" (H.P. 827) (L.D. 1118) reporting "Leave to Withdraw"

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Assure that the State Income Tax does not Increase Due to Changes in the Federal Income Tax Code" (H.P. 965) (L.D. 1294) reporting "Leave to Withdraw"

Representative STROUT from the Committee on Transportation on Bill "An Act Authorizing a Study to Determine the Feasibility of Seat Belts in School Buses" (H.P. 215) (L.D. 267) reporting "Leave to Withdraw"

Representative MANNING from the Committee on Human Resources on Bill "An Act Pertaining to Breast Cancer Treatment" (H.P. 868) (L.D. 1169) reporting "Leave to Withdraw"

Representative BOST from the Committee on Education on Bill "An Act to Clarify the Law Concerning Secondary Education Course Requirement Facilities" (H.P. 783) (L.D. 1055) reporting "Leave to Withdraw"

Representative BAKER from the Joint Select Committee on Corrections on Bill "An Act to Promote Sex Offender Treatment for Persons Convicted of Sex Offenses" (H.P. 578) (L.D. 776) reporting "Leave to Withdraw"

Representative BAKER from the Joint Select Committee on Corrections on Bill "An Act to Lengthen the Period of Probation for Persons Convicted of Sex Offenses" (H.P. 658) (L.D. 891) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft/New Title

Representative GURNEY from the Committee on Business Legislation on Bill "An Act Relating to Redemption of Manufacturers' Rebates in the Sale of Consumer Goods" (H.P. 156) (L.D. 197) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to the Availability of Rebate Forms for Manufacturers' Rebates" (H.P. 1179) (L.D. 1608)

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 ALLEN from the Committee on Business Legislation on Bill "An Act to Amend the Postgraduate Residency Requirements for Physicians" (Emergency) (H.P. 314) (L.D. 413) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Postgraduate Residency Requirements for Certain Physicians" (Emergency) (H.P. 1180) (L.D. 1609)

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. 681) (L.D. 922) Bill "An Act to Permit the Annual Filing of Certain Fuel Use Reports" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-135)

(H.P. 693) (L.D. 934) Bill "An Act to Facilitate the Transfer of Information Between the Department of Human Services and the Bureau of Taxation" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-136)

(S.P. 460) (L.D. 1417) Bill "An Act Concerning the Affidavit of Paternity" Committee on Judiciary reporting "Ought to Pass"

(S.P. 309) (L.D. 888) Bill "An Act to Facilitate the Movement of Emergency Relief Vehicles" Committee on Transportation reporting "Ought to Pass"

(S.P. 305) (L.D. 874) Bill "An Act to Revise the Procedures for the Enforcement of Money Judgments" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-66)

(S.P. 261) (L.D. 742) RESOLVE, Creating a Watershed District Commission Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-65)

(S.P. 419) (L.D. 1299) Bill "An Act Relating to the Capitalization of the Maine Capital Corporation" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-64)

(H.P. 446) (L.D. 599) Bill "An Act Relating to Agricultural Internship and Training" Committee on Agriculture reporting "Ought to Pass"

(H.P. 654) (L.D. 882) Bill "An Act to Amend the Truck Size and Weight Laws" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-139)

(H.P. 749) (L.D. 1012) Bill "An Act Relating to the Cost-of-living Formula for Retirees under the Maine State Retirement System" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(H.P. 105) (L.D. 115) Bill "An Act to Promote the Coordination of State Crime Prevention Programs for Juveniles" Joint Select Committee on Corrections reporting "Ought to Pass"

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

CONSENT CALENDAR

Second Day

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

(H.P. 750) (L.D. 1013) Bill "An Act to Clarify and Amend the Maine State Retirement Law" (C. "A" H-134)

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

PASSED TO BE ENGROSSED

Bill "An Act Concerning the Taking of Smelts" (H.P. 1153) (L.D. 1568)

Bill "An Act to Amend Certain Election Laws" (H.P. 1154) (L.D. 1569)

Bill "An Act Relating to the Purchase of Alcoholic Beverages by Minors" (H.P. 1156) (L.D. 1571)

Bill "An Act to Develop a Managed Care Insurance Plan Demonstration for Uninsured Individuals and Repeal of the Catastrophic Illness Program Law" (Emergency) (H.P. 1169) (L.D. 1574)

Bill "An Act Concerning Prizes Awarded by Charitable Organizations" (H.P. 1172) (L.D. 1598)

Bill "An Act to Save Medicaid Funds by Expanding the Ability of the Department of Human Services to Recover Funds from Other Payors" (H.P. 1175) (L.D. 1601)

RESOLVE, Reestablishing the Maine Commission on the Role of State Government in Providing Independent Living Opportunities and Services to Disabled Persons (Emergency) (H.P. 1176) (L.D. 1602)

Bill "An Act to Change the Water Quality Classification of the Carrabassett River and certain of its Tributaries" (H.P. 1170) (L.D. 1596)

Bill "An Act to Establish the Well Water Information Law" (H.P. 1171) (L.D. 1597)

Bill "An Act Concerning Smoking in Restaurants" (H.P. 1174) (L.D. 1600)

Bill "An Act to Exempt Liquid Asphalt from the Ground Water Oil Clean-up Fee" (H.P. 1173) (L.D. 1599)

RESOLVE, to Permit Reginald and Alice Huard to Sue the State for Compensation for Losses Claimed to have been Suffered as a Result of Claims of Child Abuse Instituted by the State (H.P. 1155) (L.D. 1570)

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

SECOND READER

As Amended

LATER TODAY ASSIGNED

Bill "An Act to Amend the Watercraft Excise Tax Law" (H.P. 221) (L.D. 273) (C. "A" H-129)

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

On motion of Representative Scarpino of St. George, tabled pending passage to be engrossed and later today assigned.

PASSED TO BE ENGROSSED

AS AMENDED

Bill "An Act to Amend the Laws Relating to and Administered by the Department of Environmental Protection" (H.P. 641) (L.D. 864) (C. "A" H-132)

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

Representative Brown of Gorham offered House Amendment "A" (H-137) and moved its adoption.

House Amendment "A" (H-137) was read by the Clerk and adopted.

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

PASSED TO BE ENGROSSED

Bill "An Act Concerning Proof of Insurance on School Buses" (H.P. 863) (L.D. 1164) (C. "A" H-130)

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.

PASSED TO BE ENACTED  
Emergency Measure

An Act to Recodify the Public Utilities Law (H.P. 1075) (L.D. 1458)

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. 130 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 Clarify the Law Relating to Restitution for Victims of Crime by Expressly Providing that Cities, Counties and other Governmental Entities can be Victims and that Organizations may be Ordered to Pay Restitution (S.P. 403) (L.D. 1243)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 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 Expand the Maine Conservation Corps (H.P. 487) (L.D. 654) (C. "A" H-116)

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 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 Ensure Timely Adoption of Revised Solid Waste Rules (H.P. 890) (L.D. 1191) (S. "A" S-54)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and 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

RESOLVE, to Authorize the Commissioner of Mental Health and Mental Retardation to Continue to Employ Charles E. Meredith, M.D., as Superintendent of the Bangor Mental Health Institute (S.P. 510) (L.D. 1534)

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

On motion of Representative Diamond of Bangor, tabled pending final passage and later today assigned.

ENACTOR  
LATER TODAY ASSIGNED

An Act to Revise the Maine Medical Laboratory Act (S.P. 191) (L.D. 518) (C. "A" S-61)

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

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

PASSED TO BE ENACTED

An Act to Extend the Freeze on Maximum Weekly Benefits Under the Workers' Compensation Act (S.P. 314) (L.D. 916) (C. "A" S-59)

An Act to Modify the Definition of Sexually Explicit Conduct (S.P. 402) (L.D. 1242)

An Act to Modify Certain Criminal Appeal Laws (S.P. 406) (L.D. 1257)

An Act Relating to a Court Granting Continuance under the Corrections Law (S.P. 410) (L.D. 1261)

An Act to Provide Funds for Respite Care (H.P. 92) (L.D. 101) (C. "A" H-111)

An Act to Continue Statewide Standards for the Identification and Management of Child Abuse and Neglect (H.P. 162) (L.D. 203) (C. "A" H-115)

An Act to Establish Pilot Indigency Screening Units for Court-appointed Counsel (H.P. 324) (L.D. 423) (C. "A" H-110)

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 ENACTED

An Act Regarding the Maine Agricultural Marketing and Bargaining Act of 1973 (H.P. 679) (L.D. 912) (S. "A" S-62 to C. "A" H-107)

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

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

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I object to the provisions of this bill which permit binding arbitration.

I would like to have a roll call please.

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 Presque Isle, Representative Lisnik.

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: This is an amendment to the Agriculture Bargaining Act of 1973 and it does have a final offer of binding arbitration in dealing with producers of agriculture commodities. Basically this deals with potatoes, peas and poultry.

The committee did an excellent job, I believe, in working this bill out. There are a variety of provisions in the bill to make it workable. There is mediation that is non-binding, there is then binding mediation and then, in the final analysis if all those do not work, there is binding arbitration.

The Commissioner of Agriculture, with the permission of the Governor, came and testified in favor of this bill. The only caveat, the concern that the Governor had, was that a mechanism be set in place to ensure that this does work and work effectively for both parties.

Pursuant to his request, the Committee has coming forth from the parties that will be involved in the binding arbitration, a study annually that comes to the Commissioner of Agriculture and to the Joint Standing Committee on Agriculture. That is an annual report to track the progress of this form of bargaining between producers of agriculture commodities and processors.

As I said, the Governor is supportive of this piece of legislation and there are other people that may want to speak relative to the poultry industry but it is something that they need as well. Remember that producers of potatoes in the area that I come from basically have found themselves in a monopoly situation. McCains of Canada has bought out Simplot and they are the largest buyer of our agriculture commodities. In New Brunswick, where McCains operate, they have the same sort of legislation on the books that requires binding arbitration. They came down and opposed this piece of legislation. Apparently they feel that that law is fine for their own farmers in Canada but it is not fine for American farmers here in the United States.

I hope that you will support this bill.

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

Representative WHITCOMB: Mr. Speaker and Members of the House: I ask you to support the 11 members of the Agriculture Committee who supported this legislation. This has been the subject of a great deal of debate and discussion in our committee and we feel that the bill that is before you now for enactment is the best method for the legislature to address a very difficult situation.

As the Representative from Presque Isle just mentioned, we are dealing with farmers that are put in a position of having to face a monopoly buyer of their products. It is not a situation we take lightly. We realize the provisions of this legislation could, if all else fails, end in binding arbitration. Understand that there are many, many steps in the legislation, prior to that portion of the legislation.

As the Representative from Presque Isle mentioned, there are provisions in the law that require annual reports back to this body through its Agriculture Committee to the commissioner regarding any effect that this legislation may have on the agriculture marketing situation. In the blueberry industry, the farmers deal with a large number of processors and some unique situations exempts blueberry producers and processors from certain provisions of the law. We feel that this is

legislation that is needed to address a very difficult and nearly impossible situation for small producers facing major corporations, if no monopolies.

The 11 members of the committee appreciated your support through the prior stages of this legislation and hope you will again support this in the enactment stage.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I will not belabor this issue but I, too, would urge you to vote along with the 11 members of the Agriculture Committee who sent this bill to us. My concerns in this legislation are separate from the binding arbitration concerns, although it is present in the legislation, but other parts of this legislation are important to the poultry growers of my area.

Pine Tree Poultry Growers Association has been trying to get organized so that they can present, as a group, to the poultry processors of the area in trying to negotiate better rates for themselves. I would like to point out that since 1979, growers in my area have not gotten an increase but actually got a decrease in what they have been paid to produce birds.

Pine Tree Poultry Growers Association members have, since they have attempted to organize under the Agriculture Marketing Bargaining Act, lost the ability to produce birds. Their birds have been pulled from their farms.

It is my understanding that seven of the eleven members of the board of directors have lost birds, and three of the four officers have lost birds. It is a blatant attempt to intimidate these individuals who are simply trying to eke out a living in this area. I would urge this House to support this legislation. It is a step in the right direction, it is not a solution, but a step in the right direction.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Men and Women of the House: I would also like to add that a law very similar to this has been in effect in the State of Michigan for nine years. It has been reviewed and it is working very well. Our report from the Agriculture Committee with 11 members on it, closely models this law in Michigan that has been working nicely so far.

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

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

I would like to pose a question to Representative Lisnik, who mentioned a moment ago, that New Brunswick presently has binding arbitration on their books. The question that I would like to ask him is whether or not the Canadian farmers presently receive more for their commodities than Maine farmers?

The SPEAKER: The Representative from Mt. Desert, Representative Zirkilton, has posed a question through the Chair to the Representative from Presque Isle, Representative Lisnik, who may respond if he so desires.

The Chair recognizes that Representative.

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: It is a difficult question to answer because of the variation in the exchange rate. But I do understand, in talking with people from New Brunswick, that the law they do have on the

books has worked effectively and has worked to the benefit of both the processor and the producer.

The SPEAKER: A roll call has been ordered. The pending question before the House is enactment of L.D. 912. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 54

YEA - Aliberti, Allen, Anderson, Anthony, Bailey, Baker, Bickford, Bost, Bott, Callahan, Carroll, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Dellert, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Harper, Hichborn, Hickey, Higgins, Hillock, Hognlund, Holloway, Holt, Hussey, Ingraham, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lawrence, Lisnik, Look, Lord, MacBride, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Perry, Pines, Priest, Rand, Reed, Rice, Richard, Ridley, Rolde, Rotondi, Scarpino, Sheltra, Sherburne, Simpson, Smith, Soucy, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Thistle, Tracy, Tupper, Vose, Walker, Weymouth, Whitcomb, The Speaker.

NAY - Armstrong, Begley, Bragg, Brown, Carter, Davis, Dexter, Farren, Foss, Foster, Hepburn, Lebowitz, McPherson, Parent, Racine, Salsbury, Seavey, Small, Stanley, Webster, M.; Willey, Zirkilton.

ABSENT - Boutilier, Cashman, Kimball, Macomber, Melendy, Pouliot, Reeves, Ruhlin, Rydell, Taylor, Warren, Wentworth.

Yes, 115; No, 22; Absent, 12; Vacant, 2; Paired, 0; Excused, 0.

115 having voted in the affirmative and 22 in the negative with 12 being absent and 2 vacant, L.D. 912 was passed to be enacted, signed by the Speaker, and sent to the Senate.

PASSED TO BE ENACTED

An Act to Regulate Discharges from Vehicular Holding Tanks (H.P. 730) (L.D. 982) (C. "A" H-120)

An Act to Develop a Pilot Community Reintegration Program for Youth Returning to their Homes from the Maine Youth Center (H.P. 756) (L.D. 1019) (C. "A" H-112)

An Act Relating to the Narcotics Laws (H.P. 821) (L.D. 1112)

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.

Representative Vose of Eastport moved that the House reconsider its action whereby Bill "An Act to Recodify the Public Utilities Law" (H.P. 1075) (L.D. 1458) was passed to be enacted.

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

Representative VOSE: Mr. Speaker, Men and Women of the House: It is a long bill, I realize that, and we spent an awfully lot of time in committee, over a year as a matter of fact, on this bill. It is a recodification -- in other words, a recompilation of all of the laws pieced in together. Within this act, there are no, I repeat, no substantive changes. So therefore, you can feel free to vote on this and I can assure you, as a matter of record, there are no changes.

Subsequently, the Representative from Eastport, Representative Vose, withdrew his motion to reconsider.

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

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

SENATE PAPER

Bill "An Act to Establish the Aroostook Water and Soil Management Board" (S.P. 535) (L.D. 1610)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

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

Representative Jacques: Mr. Speaker, is this in violation of Joint Rule 24?

The SPEAKER: The Chair would rule in the affirmative. The matter is not properly before the body.

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

SENATE PAPER

Report of the Committee on Business Legislation on Bill "An Act to Recodify the First-lien Real Estate Secured Lending Provisions Relating to Nonbanks in the Maine Consumer Credit Code" (S.P. 517) (L.D. 1560) reporting that it be referred to the Committee on Banking and Insurance.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Banking and Insurance.

Report was read and accepted and the bill referred to the Committee on Banking and Insurance in concurrence.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

Joint Order (S.P. 504) relative to Recalling Bill "An Act to Clarify the Description of Crooked River in Cumberland County and to Extend Special Protection to Outstanding Rivers to the Crooked River" (S.P. 38) (L.D. 26) from the Legislative Files to the Senate.

- In Senate, Read and Passed.  
TABLED - May 14, 1987 by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative GREENLAW of Standish to Reconsider whereby the Joint Order was Indefinitely Postponed in non-concurrence.

On motion of Representative Michaud of East Millinocket, retabled pending the motion of Representative GREENLAW of Standish to Reconsider whereby the Joint Order was Indefinitely Postponed in non-concurrence and later today assigned.

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

HOUSE REPORT - "Ought to Pass" in New Draft (H.P. 1177) (L.D. 1606) - Committee on Aging, Retirement and Veterans on Bill "An Act to Equalize Retirement Credits for Air and Army National Guardsmen" (H.P. 936) (L.D. 1252)



TABLED - May 15, 1987 by Representative HICKEY of Augusta.

PENDING - Acceptance of the Committee Report.

Representative Hickey of Augusta moved that the House retable pending acceptance of the Committee Report.

Subsequently, Representative Hickey of Augusta withdrew his motion to table.

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

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

Bill "An Act to Amend the Maine Tort Claims Act" (H.P. 682) (L.D. 923) (C. "A" H-108)

TABLED - May 15, 1987 by Representative PARADIS of Augusta.

PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, retabled pending passage to be enacted and specially assigned for Tuesday, May 19, 1987.

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

Bill "An Act Permitting Private Mediation for Divorcing Couples" (H.P. 1114) (L.D. 1508)

TABLED - May 15, 1987 by Representative FOSTER of Ellsworth.

PENDING - Passage to be Enacted.

On motion of Representative Anthony of South Portland, retabled pending passage to be enacted and specially assigned for Tuesday, May 19, 1987.

(Off Record Remarks)

The SPEAKER: By unanimous consent, unless previous notice is given to the Clerk of the House or the Speaker of the House by some member of his or her intention, the Clerk is authorized today to send to the Senate, 30 minutes after the House recesses, all matters passed to be engrossed in concurrence and all matters that require Senate concurrence. After such matters have been sent to the Senate by the Clerk, no motion to reconsider will be allowed.

On motion of Representative Sheltra of Biddeford, Recessed until five o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

The following Communication:

The Senate of Maine  
Augusta

May 18, 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 Energy and Natural Resources, the Governor's nomination of Hervey M. Triplett of Bangor for appointment to the Board of Environmental Protection.

Hervey M. Triplett is replacing Kim Matthews.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine

Augusta

May 18, 1987

Honorable Edwin H. Pert

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

Senate Paper 457, Legislative Document 1400, AN ACT to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants and the Rehabilitation of Substance Abusing Employees, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Twenty-one Senators having voted in affirmative and fourteen Senators having voted in the negative, accordingly, it was the vote of the Senate that the Bill not become a law and the veto was sustained.

Respectfully,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Unanimous Ought Not To Pass

Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Require the Use of Seat Belts in all Motor Vehicles" (S.P. 240) (L.D. 659)

Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act to Recodify the Animal Welfare Laws" (S.P. 285) (L.D. 811)

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

Unanimous Leave to Withdraw

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Relating to Requirements for a Master Electrician License" (S.P. 85) (L.D. 171)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Establish Hospital and Nursing Home Policies for Staff and Practice Privileges" (S.P. 164) (L.D. 468)

Report of the Committee on Economic Development reporting "Leave to Withdraw" on Bill "An Act to Create the Maine Business Advisory Board" (S.P. 258) (L.D. 730)

Report of the Committee on Economic Development reporting "Leave to Withdraw" on Bill "An Act to Establish a State Business Advocate in the Governor's Office" (S.P. 298) (L.D. 848)

Report of the Committee on Utilities reporting "Leave to Withdraw" on Bill "An Act Regarding Disposal of Waste Matter" (S.P. 359) (L.D. 1094)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Identify the Potential Hazards of Paint Removal by Means of Heat" (S.P. 383) (L.D. 1160)

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

Ought to Pass in New Draft

Report of the Committee on Human Resources on Bill "An Act to Provide Qualified Nursing Assistant Services" (S.P. 160) (L.D. 464) reporting "Ought to Pass" in New Draft (S.P. 533) (L.D. 1604)

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 Tuesday, May 19, 1987.

Ought to Pass in New Draft

Report of the Committee on Human Resources on Bill "An Act to Require Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded to Include Provisions for Covering Increases in Insurance Premiums" (S.P. 176) (L.D. 491) reporting "Ought to Pass" in New Draft (S.P. 532) (L.D. 1603)

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 Tuesday, May 19, 1987.

Ought to Pass in New Draft/New Title

Report of the Committee on Legal Affairs on Bill "An Act Concerning the Use of Safety Devices in Swimming Pools" (S.P. 247) (L.D. 696) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning the Use of Safety Devices in Public Swimming Pools" (S.P. 534) (L.D. 1605).

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 Tuesday, May 19, 1987.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Clarify Just Value as it Relates to Property Assessment" (S.P. 52) (L.D. 93)

Signed:

Senator: DOW of Kennebec  
 Representatives: CASHMAN of Old Town  
 MAYO of Thomaston  
 DORE of Auburn  
 SWAZEY of Bucksport  
 DUFFY of Bangor  
 NADEAU of Saco

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-67) on same bill.

Signed:

Senators: TWITCHELL of Oxford  
 SEWALL of Lincoln  
 Representatives: SEAVEY of Kennebunkport  
 JACKSON of Harrison

ZIRNKILTON of Mount Desert  
 INGRAHAM of Houlton

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Reports were read.

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought Not to Pass" Report.

This issue is one that we have dealt with in the past and the proponents of this piece of legislation are trying to address an issue which we have all heard about or seen in our districts whereby property is being assessed other than its current use. I think those of you who were here in the last session of the legislature remember the debate on this issue. You probably also remember that we had a property tax study committee last session, which reported back to the Second Session of the 112th. One of the recommendations in that first report from that committee, a report dealing with assessment practices, was that we include the term "current use" in the statutory definition that assessors follow. That recommendation was unanimously adopted by this House and the term "current use" is now a matter of law.

This bill that is coming out of our committee divided attempts to further that cause by adding the words "market demand" at its "current use." I guess the problem those of us who signed it "Ought Not to Pass" have is that this will add nothing but confusion to an already very confusing issue. We changed the law last year to try to address the situation and barely a year later, we are coming back and going to change the definition again.

I would submit to the House that "market demand" could be interpreted in more than one manner. In this respect, I disagree with my good friend, Representative Jackson, who is on the other side of this issue. I don't disagree with his intentions, I just disagree that adding the words "market demand" will enhance assessment practices. Let me give you an example. If I owned a piece of land on Stillwater Avenue in Old Town that I am using as a residence and my neighbor puts in condominiums next door to me and those condominiums sell, then the assessor, I think, could have the right to make the determination that the "market demand" in that neighborhood is for condominiums because they sold. I guess our contentions would be, that while this may be well-intended that the addition of the term "market demand" is only going to enhance the confusion and not enhance the assessment practices.

I would encourage the House to support the Majority "Ought Not to Pass" Report.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise this afternoon to oppose the motion of the Majority "Ought Not to Pass" Report. I would highly hope and recommend that you would support the Minority Report.

As many of you know, as you campaigned, particularly if you represent rural areas, you have had the opportunity to see what is occurring and what has occurred in the last few years. I feel that many of those problems have occurred due to the assessing practices of the assessors of the localities. It is through no fault of their own, it comes through the interpretation or the understanding they have from the assessment manual, which is produced by the law that governs the assessment practices in the State of Maine. The assessors have been confused. The

assessors on one hand are told to assess at the highest and best use for that property and, as you read on, there is a further definition of other items that they should consider in their assessing of those properties.

I think that the gentleman from Old Town is correct and I think the current language as it stands is ambiguous and can be misunderstood very easily by the assessors. I think by adding this language, "market demand" at its "current use" will make it more clear to those assessors in their practices.

The example that he just cited about the "market demand" on Stillwater Avenue in Old Town, where somebody might purchase a piece of property that abuts his property and builds condominiums, I think, is a very weak argument against this bill. If you read the amendment, it is the "market demand" for the property at its "current use". For example, if I did have a piece of property that abutted and I was using that for a residence, then my property would have to be assessed at the "market demand" for its "current use", which would be as a residence. I don't see the argument where that property could be assessed and taxed for future development as he suggested.

I feel very strongly that this language is a good and strong attempt at giving those local assessors the tool that they need so they can accurately assess the properties. As I indicated a little earlier, when you travel through those areas, particularly the more rural areas of the state, that the assessing practices are forcing those people, particularly if they have shore property or property with views, to sub-divide those properties because they can no longer continue to own them. If you take the more westerly part of the state and the southern part of the state where we have some very scenic areas -- access to water and things of that nature -- when you see a piece of shore property assessed at its highest and best use, in most instances, when that occurs, those properties then are forced to be sub-divided and sold. That is something we are extremely concerned about.

There are a number of pieces of legislation before us this year attempting to address that. The tax policy, the assessing policies, that have been adopted through the past few years have compounded the problems at the local level. So I think the amendment, as presented this afternoon, is a strong and good amendment. I know that some of the municipal officials are a little concerned about it but I think given the opportunity to use it, they will use it very well. I would hope that you would defeat the pending motion and vote for the Minority Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Old Town, Representative Cashman, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

68 having voted in the affirmative and 49 in the negative, the Majority "Ought Not to Pass" Report was accepted in concurrence.

#### Divided Report

Majority Report of the Committee on Legal Affairs on Bill "An Act to Establish a Presidential Primary in Maine" (S.P. 123) (L.D. 328) reporting "Ought to Pass" in New Draft (S.P. 531) (L.D. 1595)

Signed:

Senators: KANY of Kennebec  
ESTES of York

Representatives: PRIEST of Brunswick  
PERRY of Mexico  
TUPPER of Orrington  
MARTIN of Van Buren  
HARPER of Lincoln  
PAUL of Sanford  
JALBERT of Lisbon

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

Signed:

Senator: DILLENBACK of Cumberland

Representatives: MURPHY of Berwick  
STEVENS of Sabattus  
STEVENSON of Unity

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

Reports were read.

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

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought to Pass" Report in concurrence.

This bill establishes an optional presidential primary for the State of Maine. As you can see, we have a 9 to 4 bipartisan report from the committee.

At present, caucuses are poorly attended. In fact, the figures that we have show that, at best, there is about a four percent participation rate. These caucuses are, unfortunately, not available to those who are sick or must work on the days the caucuses are held and they do not provide a secret ballot. This bill is enabling legislation only. A party state committee is the agent which chooses whether or not to hold a presidential primary. If the party decides it wants to stay with caucuses, it may do so.

The advantages of a presidential primary, the committee felt, are clear, it increases party voter participation, which is much needed. It allows the secret ballot and would also allow focusing of a party's presidential candidates on Maine issues.

Again, if a party wishes to keep the caucus system, it may. If it wishes to go to a presidential primary system, it may. The bill recognizes that parties determine their own fate and is strictly enabling legislation. I think it is good legislation, I think it helps the parties and I would urge you to support the Majority Report.

Subsequently, the Majority "Ought to Pass" Report was accepted in concurrence, the New Draft read once and assigned for second reading, Tuesday, May 19, 1987.

#### Non-Concurrent Matter TABLED AND ASSIGNED

Bill "An Act to Provide Special License Plates and Decals for People with Hearing Impairments" (H.P. 1106) (L.D. 1498) which was passed to be engrossed in the House on May 12, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-63) in non-concurrence.

On motion of Representative Diamond of Bangor, tabled pending further consideration and specially assigned for Tuesday, May 19, 1987.

#### REPORTS OF COMMITTEES

##### Unanimous Leave to Withdraw

Representative FOSTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds for Maine's Participation in the

Main Street Program" (H.P. 555) (L.D. 753) reporting "Leave to Withdraw"

Representative CLARK from the Committee on Banking and Insurance on Bill "An Act to Establish a Maine High-Risk Insurance Organization to make Health Insurance Available to People who are Unable to Obtain Health Insurance for Health Reasons" (H.P. 96) (L.D. 106) reporting "Leave to Withdraw"

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

Divided Report  
TABLED AND ASSIGNED

Majority Report of the Committee on Utilities reporting "Ought Not to Pass" on Bill "An Act to Create a Code of Ethics for Public Utilities Commissioners" (H.P. 794) (L.D. 1066)

Signed:

Senators: KERRY of York  
ERWIN of Oxford  
WEBSTER of Franklin

Representatives: VOSE of Eastport  
RICHARD of Madison  
O'GARA of Westbrook  
WEYMOUTH of West Gardiner  
WILLEY of Hampden  
NICHOLSON of South Portland  
WEBSTER of Cape Elizabeth

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

Signed:

Representatives: BAKER of Portland  
ALLEN of Washington  
HOLT of Bath

Reports were read.

On motion of Representative Vose of Eastport, tabled pending acceptance of either report and specially assigned for Tuesday, May 19, 1987.

Divided Report

Majority Report of the Committee on Utilities reporting "Ought Not to Pass" on Bill "An Act to Ensure that Salaries, Perquisites and Other Compensation of Executives of Regulated Utility Companies are Just and Reasonable and do not Unfairly Increase Utility Rates" (H.P. 739) (L.D. 1002)

Signed:

Senators: KERRY of York  
ERWIN of Oxford  
WEBSTER of Franklin

Representatives: VOSE of Eastport  
RICHARD of Madison  
O'GARA of Westbrook  
WEYMOUTH of West Gardiner  
WILLEY of Hampden  
NICHOLSON of South Portland  
WEBSTER OF Cape Elizabeth

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

Signed:

Representatives: BAKER of Portland  
ALLEN of Washington  
HOLT of Bath

Reports were read.

On motion of Representative Vose of Eastport, recommitted to the Committee on Utilities. Sent up for concurrence.

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

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Relating to the Issuance of Bonds" (H.P. 800) (L.D. 1074) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative LISNIK from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funding for Telephones at Communicare Centers Located in each County" (H.P. 853) (L.D. 1147) reporting "Leave to Withdraw"

Representative FOSTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Expand the State Employee Assistance Program" (H.P. 752) (L.D. 1015) reporting "Leave to Withdraw"

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

Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Require that Loads of Gravel, Sand, Crushed Stone, Wood Chips, Building Debris or Rubbish be Secure to Prevent Spillage" (H.P. 799) (L.D. 1073)

Signed:

Senators: CAHILL of Sagadahoc  
THERIAULT of Aroostook

Representatives: MOHOLLAND of Princeton  
STROUT of Corinth  
SALSBURY of Bar Harbor  
McPHERSON of Eliot  
MILLS of Bethel  
CALLAHAN of Mechanic Falls

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

Signed:

Senator: DOW of Kennebec

Representatives: POULIOT of Lewiston  
MACOMBER of South Portland  
REEVES of Pittston  
SOUCY of Kittery

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought Not to Pass" Report.

This bill has already taken care of itself. The woodchips, the building material, the spillage, is all in the law. The gravel, sand and stone is also secured on the dump trucks and there is no reason this bill should be passed.

I will give you an instance regarding a dump truck. You buy a dump truck or a 6, 10, 12 yard -- they may have room for sideboards, you fill your truck to level, don't fill it up to the sideboards -- if you do, it spills off and causes windshield breakage and all that sort of thing. Everything in the bill is all taken care of by law. The only thing about this law is that it has to be taken care of by the State Police and the municipal officers so, therefore, I move the "Ought Not to Pass" Report.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: It is true that the current law does define certain things but what the bill does is that it defines other materials, which are not covered in the basic law. For those of you that have been around awhile, you realize that we do have a problem with vehicles that carry loose material that is not properly secured.

If you will recall, last June, there was a woman that was killed as a result of a rock that fell off one of the vehicles operated by the Maine Department of Transportation.

Today, I got some additional information from Risk Management. During the last three years, a total of 544 claims were paid for windshield damage that was caused by rocks, which totaled \$70,080.16. The claims that were paid were for vehicles that were traveling in opposite directions -- in other words, if you followed a truck and something falls out of it, the state does not pay those claims. Why they don't is beyond my comprehension.

What this bill does is that it defines other materials, which are not defined in the basic law. It does not require any expenditure of funds but it clarifies what other materials consist of and it gives the local authorities, law enforcement people, more clout to be able to enforce the provision.

I hope that you will vote against the pending motion.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Princeton, Representative Moholland, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Macomber of South Portland requested a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I don't want my good friend across the aisle is talking about -- other debris. I do know that there is another bill coming in here to cover gravel trucks.

This bill does nothing. It does not do one earthly thing because everything is secured. Talking about breaking windshields -- I have had my windshield broken twice by cars. Most of the windshield breaking is done by coming off the tar through sand and ice.

As far as the rocks coming into the windshield, I think that happens when it comes off the wheels of the trucks when you gravel your roads in the winter time. This bill has nothing to do with the rocks in the windshields.

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

Representative HANDY: Mr. Speaker, Men and Women of the House: The Chair of the Transportation Committee said that there is another bill coming down the pike (no pun intended) but I would submit, having been aware of what that committee vote is, that he won't be supporting that one either. He says that

this bill does nothing -- well, it does a little bit more than what the existing law does. It makes the statute clearer with respect to loads.

I have a bill that would do a great deal more, which will be coming down with a less than optimistic report. Had I had the opportunity to work with the committee, I would have probably opted for some kind of compromise with the provisions that may be included in this bill. This bill does make a small step toward encouraging people to drive with secure loads. There have been many, many instances where vehicles, be they state vehicles, municipal vehicles or private vehicles (it makes no difference whose lettering is on the side of the vehicle) where rocks and other debris have fallen out, smashed headlights, pitted paint jobs, smashed windows and not the least of which, caused bodily injury and, indeed, death.

I submit to you that this is one time when we can do something that is truly preventative and require, not only the state vehicles, not only the municipal vehicles, but all vehicles in the State of Maine to cover their loads. It is the only sensible and responsible thing to do. The state itself has not taken that responsibility upon itself and neither has the majority of private people nor, I would submit, the majority of municipal people. When those entities fail to act upon themselves for the public good, the state has, not only a right, but an absolute responsibility to assure that the health, safety, and well-being of all individuals who ride the roads in the State of Maine, is preserved. I think that that is what we can do today with this very small step.

It may not go as far as I would like, with the legislation that I have presented, but it is a small step and I would hope that you would oppose the pending motion.

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

Representative REEVES: Mr. Speaker, Men and Women of the House: The Department of Transportation supports this clarification of the present law that requires that loads of gravel and other substances be secured. This bill would do something to help this problem in Maine, which so many of our constituents have complained about -- the problem of people being injured from loose materials falling off trucks.

I urge you to support this clarification of the present law.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative McSweeney.

Representative MCSWEENEY: Mr. Speaker, Men and Women of the House: I believe the secured load should be passed. Just two weeks ago, I had my windshield cracked wide open by a truck going by with a load of gravel and I think, if it had been covered and secured, this would not have happened.

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

Representative MELENDY: Mr. Speaker, Men and Women of the House: Just one more thing for you to think about -- not just the windshields, but I got a call from a physician last summer asking us to please do something about covering these loads -- bicycle riders are always getting hurt and people seem to have no consideration for them.

Representative Moholland of Princeton was granted permission to speak a third time.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: If you put a canvas on a truck, you would have to get a Barnum and Bailey circus tent to cover it. If you don't police this thing and you load these trucks up and round them

over and don't put them level, there is no way in the world to cover this -- you would have to buy \$8 million worth of canvas to cover that truck. There is no way you could strap it down. The rocks are still going to fall off the truck if you don't load it level. It would probably cost the State of Maine hundreds of thousands of dollars. In ten hours of work, it probably would cost them two extra hours. There is no way in the world that you can do this. You have to have your officers police this thing just like they do with a load of logs. When you round a load of logs over, they get you for over height. It is the same way when you load a dump truck -- you have your sideboards on there, you should load your truck below the sideboards and if you don't police it, you are still going to have gravel on the sides of your dump truck, on the back of your dump truck and on the rails. There is no way in the world you can stop gravel from coming out of these trucks. You are going to lose a percentage of windshields. You can even have cars break your windshield.

The way the tires are built now, you have rocks stay on your rear tires. When they go by and round a corner, they lean, and that rock will come out and hit your the windshield.

I hope you go along with the "Ought Not to Pass" Report.

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

Representative RACINE: Mr. Speaker, Men and Women of the House: I don't know why the gentleman is bringing up a price tag on this bill. There is no fiscal note on this because there is no price tag. All this thing does is that it requires that you load your trucks in a safe manner and, if you don't, you are going to get clobbered. All it does is protect the people. There is no fiscal note, there is no cost to the state, there is no cost to the municipalities -- there is no cost, period. I want to make that quite clear.

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

ROLL CALL NO. 55

YEA - Anderson, Armstrong, Bailey, Begley, Bickford, Cashman, Dexter, Farren, Garland, Gould, R. A.; Hichborn, Jackson, Lebowitz, Look, MacBride, McGowan, Moholland, Parent, Reed, Sherburne, Smith, Stevens, P.; Stevenson, Strout, D.; Tammaro, Tardy, Vose, Walker, Weymouth, Whitcomb.

NAY - Aliberti, Allen, Anthony, Baker, Bost, Bott, Boutilier, Brown, Carroll, Carter, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Davis, Dellert, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Foss, Foster, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Harper, Hepburn, Hickey, Higgins, Hoglund, Holt, Hussey, Ingraham, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lawrence, Lisnik, Lord, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McHenry, McPherson, McSweeney, Melendy, Michaud, Mitchell, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Perry, Pines, Pouliot, Priest, Racine, Rand, Reeves, Rice, Richard, Rolde, Rotondi, Ruhlin, Rydell, Salsbury, Scarpino, Simpson, Small, Soucy, Stevens, A.; Strout, B.; Swazey, Telow, Thistle, Tracy, Tupper, Wentworth, Zirnkilton.

ABSENT - Bragg, Callahan, Hillock, Holloway, Kimball, Mills, Ridley, Seavey, Sheltra, Stanley, Taylor, Warren, Webster, M.; Willey, The Speaker.

Yes, 30; No, 104; Absent, 15; Vacant, 2; Paired, 0; Excused, 0.

30 having voted in the affirmative and 104 in the negative with 15 absent and 2 vacant, the motion did not prevail.

Subsequently, the Minority "Ought to Pass" Report was accepted, the bill read once and assigned for second reading Tuesday, May 19, 1987.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act Concerning the Maine Railroad Excise Tax" (H.P. 531) (L.D. 715)

Signed:

Representatives: SEAVEY of Kennebunkport  
CASHMAN of Old Town  
MAYO of Thomaston  
JACKSON of Harrison  
DORE of Auburn  
NADEAU of Saco  
SWAZEY of Bucksport  
ZIRNKILTON of Mount Desert  
INGRAHAM of Houlton

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-140) on same bill.

Signed:

Senators: SEWALL of Lincoln  
TWITCHELL of Oxford  
DOW of Kennebec  
Representative: DUFFY of Bangor

Reports were read.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I move that the House accept the Majority (9 to 4) "Ought Not to Pass" Report.

The Maine Railroad Excise Tax is the most complicated tax that we have in this state except for the mining tax. It is not very easily understood but, put simply, it is based on the ability to pay. The tax is determined by first determining the net profit of the railroad being taxed and then factoring that by the amount of trackage that railroad has in Maine as a percentage of the amount of trackage it has everywhere else.

As I said, it was put in place many years ago to replace the property tax on rail lines. The people who wrote this many years ago had the foresight, even though they were replacing the property tax with it, not to write into this new law, the same shortcomings that are inherent of the property tax, that being that the property tax has no reflection on ability to pay. The railroad excise tax does. The more money you make, the more tax you pay, just as you do with our corporate income tax.

What this bill proposes to do is change the way in which we assess the tax on one railroad. The reason that the change is proposed is because that one railroad pays taxes. The reason that that railroad pays that tax is because that railroad company makes money. The tax works the way it was intended to work. The tax is based on the ability to pay and that one railroad has the ability to pay the tax. It is as simple as that.

This report is the first divided report out of Taxation this year that finds Representatives Mayo, Jackson and Cashman all on the same side. I didn't point that out for levity, Mr. Speaker, I pointed

that out for a reason. I can see that the Speaker is not amused.....

The SPEAKER: The Chair would answer in the affirmative.

Representative CASHMAN: I pointed that out for the simple reason that, in the 112th Legislature, the Taxation Committee was wrestling with the problem of another special exemption that we gave to a railroad, Maine Central Railroad, and we determined in that session of the legislature to do away with that special treatment we gave that railroad. In the course of that study, the three of us, Representatives Mayo, Jackson and Cashman spent a lot of time on the railroad excise tax over the summer, between the two sessions. We did that precisely because it is a very complex tax and, before we could recommend to the legislature, we wanted to thoroughly understand it. I think the three of us spent more time on that tax than we wanted to and we came to the same conclusion — as diverse as are the political leanings of the three of us, we came to one conclusion — this tax works the way it was intended to work and it ought to be left alone. That conclusion is embodied in the Majority 9 to 4 bipartisan report and I would urge the House to accept that report.

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

Representative ROTONDI: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would vote against the pending motion to accept the Majority Report on this bill. I signed on this bill because it was important to the economy of the towns in my district. Canadian-Pacific operates 230 miles of track in Maine and this is about 14 percent of the track in the State of Maine. This track runs roughly straight across the state from Jackman through Brownville Junction to Vanceboro. Canadian-Pacific's tax is estimated through Maine at the minimum, which is about \$64,000 until at least 1990.

Labor has supported this bill and this railroad. Canadian-Pacific has about 275 employees in the State of Maine, 190 full-time and 50 part-time, and generates \$5,475,000 in payroll. There have been no layoffs, there have been no strikes and there have been no problems with unions.

Canadian-Pacific has invested in Maine in plant and equipment of \$40 million. In plant and equipment investments in Maine for 1987, \$3,280,000. I guess this is a fairness issue and it is not a tax break, it is just fair taxes.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Old Town, Representative Cashman, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Rotondi of Athens 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 Old Town, Representative Cashman, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 56

YEA - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Baker, Begley, Bickford, Bost, Boutilier, Brown, Callahan, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Dore, Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Gurney, Hale, Handy, Hanley, Harper, Hepburn, Hichborn, Higgins, Ingraham, Jackson, Jalbert, Kilkelly, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mitchell, Moholland, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paul, Perry, Pines, Priest, Racine, Rand, Reed, Reeves, Rice, Richard, Rolde, Rydell, Salsbury, Scarpino, Sherburne, Simpson, Small, Smith, Soucy, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Tardy, Telow, Tupper, Vose, Walker, Wentworth, Weymouth, Whitcomb, Zirkilton.

NAY - Bott, Duffy, Dutremble, L.; Gould, R. A.; Gwadosky, Hickey, Hoglund, Holt, Hussey, Ketover, Lacroix, Paradis, P.; Parent, Pouliot, Rotondi, Ruhlin, Tammaro, Thistle, Tracy.

ABSENT - Bragg, Hillock, Holloway, Jacques, Joseph, Kimball, Mills, Murphy, T.; Ridley, Seavey, Sheltra, Stanley, Taylor, Warren, Webster, M.; Willey, The Speaker.

Yes, 113; No, 19; Absent, 17; Vacant, 2; Paired, 0; Excused, 0.

113 having voted in the affirmative and 19 in the negative with 17 absent and 2 vacant, the Majority "Ought Not to Pass" Report was accepted. 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. 1011) (L.D. 1364) Bill "An Act to Require Safety Engineering and Loss Control in Workers' Compensation Insurance Rate-Making Proceedings" Committee on Banking and Insurance reporting "Ought to Pass"

(H.P. 59) (L.D. 62) Bill "An Act to Assure Responsibility in Regulatory Decision Making" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-141)

(H.P. 914) (L.D. 1226) Bill "An Act to Require Archery Hunter Training" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-144)

(H.P. 1092) (L.D. 1483) Bill "An Act to Repeal Loyalty Oaths for Civil Emergency Preparedness Personnel" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(H.P. 1094) (L.D. 1485) Bill "An Act to Clarify Existing Law Regarding the Loss of Military Property" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(H.P. 1095) (L.D. 1486) Bill "An Act to Repeal the Removal of Ice Jams Provisions from the State Civil Emergency Preparedness Law" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(H.P. 207) (L.D. 259) Bill "An Act to Continue the Pine Tree Partnership Fund Program" Committee on Appropriations and Financial Affairs reporting "Ought to Pass"



There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, May 19, 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. 681) (L.D. 922) Bill "An Act to Permit the Annual Filing of Certain Fuel Use Reports" (C. "A" H-135)

(H.P. 693) (L.D. 934) Bill "An Act to Facilitate the Transfer of Information Between the Department of Human Services and the Bureau of Taxation" (C. "A" H-136)

(S.P. 460) (L.D. 1417) Bill "An Act Concerning the Affidavit of Paternity"

(S.P. 309) (L.D. 888) Bill "An Act to Facilitate the Movement of Emergency Relief Vehicles"

(S.P. 305) (L.D. 874) Bill "An Act to Revise the Procedures for the Enforcement of Money Judgments" (C. "A" S-66)

(S.P. 261) (L.D. 742) RESOLVE, Creating a Watershed District Commission (C. "A" S-65)

(S.P. 419) (L.D. 1299) Bill "An Act Relating to the Capitalization of the Maine Capital Corporation" (C. "A" S-64)

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 Papers were Passed to be Engrossed as Amended and sent up for concurrence.

(H.P. 446) (L.D. 599) Bill "An Act Relating to Agricultural Internship and Training"

On motion of Representative Tardy of Palmyra, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once and assigned for second reading Tuesday, May 19, 1987.

(H.P. 654) (L.D. 882) Bill "An Act to Amend the Truck Size and Weight Laws" (C. "A" H-139)

(H.P. 749) (L.D. 1012) Bill "An Act Relating to the Cost-of-living Formula for Retirees under the Maine State Retirement System"

(H.P. 105) (L.D. 115) Bill "An Act to Promote the Coordination of State Crime Prevention Programs for Juveniles"

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

PASSED TO BE ENGROSSED

Bill "An Act Relating to the Availability of Rebate Forms for Manufacturers' Rebates" (H.P. 1179) (L.D. 1608)

Bill "An Act to Amend the Postgraduate Residency Requirements for Certain Physicians" (Emergency) (H.P. 1180) (L.D. 1609)

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 Equalize Retirement Credits for Air and Army National Guardsmen" (H.P. 1177) (L.D. 1606)

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

Representative Hickey of Augusta offered House Amendment "A" (H-142) and moved 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 following items appearing on Supplement No. 5 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES  
Unanimous Leave to Withdraw

Representative PARADIS from the Committee on Judiciary on Bill "An Act Relating to the Maine Uniform Transfers to Minors Act" (H.P. 642) (L.D. 865) reporting "Leave to Withdraw"

Representative CONLEY from the Committee on Judiciary on Bill "An Act to Amend Procedural Safeguards Regarding Juvenile Offenders" (H.P. 973) (L.D. 1320) reporting "Leave to Withdraw"

Representative MANNING from the Committee on Human Resources on Bill "An Act Relating to Requirements for License to Operate a Nursery School" (H.P. 788) (L.D. 1060) reporting "Leave to Withdraw"

Representative MANNING from the Committee on Human Resources on Bill "An Act to Require that Persons Operating a Licensed Nursery School or Preschool Meet Certain Qualification Requirements" (H.P. 748) (L.D. 1011) reporting "Leave to Withdraw"

Representative BAKER from the Joint Select Committee on Corrections on Bill "An Act to Create Regional Detention and Evaluation Centers for the Secure Confinement of Juveniles" (H.P. 950) (L.D. 1279) reporting "Leave to Withdraw"

Representative BAKER from the Joint Select Committee on Corrections on Bill "An Act to Permit the Use of State Agencies to House County Inmates in Emergency Situations" (H.P. 795) (L.D. 1067) reporting "Leave to Withdraw"

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

Refer to the Committee on Judiciary

Representative MANNING from the Committee on Human Resources on Bill "An Act to Protect Abused Children and Dependent Adults" (H.P. 1131) (L.D. 1541) reporting that it be referred to the Committee on Judiciary.

Report was read and accepted and the bill referred to the Committee on Judiciary and sent up for concurrence.

Refer to the Joint Select Committee on Corrections

Representative MANNING from the Committee on Human Resources on Bill "An Act to Promote the Coordination of State Prevention Programs for Juveniles" (H.P. 1133) (L.D. 1543) reporting that it be referred to the Joint Select Committee on Corrections.

Report was read and accepted and the bill referred to the Joint Select Committee on Corrections and sent up for concurrence.



The Chair laid before the House the following matter: Bill "An Act to Amend the Watercraft Excise Tax Law" (H.P. 221) (L.D. 273) (C. "A" H-129) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Scarpino of St. George offered House Amendment "A" (H-138) and moved its adoption.

House Amendment "A" was read by the Clerk.

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

Representative SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: This is a very simple amendment and perhaps the best way to explain it is to read the Statement of Fact. This amendment provides "a non-use exemption for the payment of watercraft excise tax similar to that provided for by the registration of motor vehicles." Right now, if you don't register your boat, you still pay the excise tax. What this amendment would do is it would say if the boat wasn't registered and therefore not used, you wouldn't have to pay the excise tax.

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

Representative CASHMAN: Mr. Speaker, I move the indefinite postponement of this amendment.

Men and Women of the House: The issue that is raised by this amendment has been in front of the Taxation Committee already in this session. What it attempts to do is to put boats in the same position as vehicles whereby if you don't use your vehicle, you don't have to register your vehicle and you don't pay an excise tax. This would do the same thing for boats.

The problem with that is, if you don't register your vehicle and you don't pay your excise tax on it, that vehicle is subject to a personal property tax. Again, I hate to sound a historian but for those of you who were here in the 11th when we dealt with the boat excise tax originally, the reason we passed it was because of all the problems with assessment and administration of a personal property tax on boats. Many communities in this state, if you were to do this, the personal property tax that the boats would be subject to in lieu of the excise tax that we are excusing them from, would be higher. I don't know if that is the case in Representative Scarpino's district -- perhaps it isn't. But in a lot of towns and cities in the state, you would be excusing people from one tax and subjecting them to another and they would end up paying more money. The towns, the boat owners, the coastal communities all came in here, three or four years ago, and requested that we replace the personal property tax with an excise tax because they couldn't administer it.

I would hope that the House would vote to indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope you don't go along with the amendment as proposed this evening. I had a bill in Taxation this year to do what he is asking and, after I presented the bill to Taxation, it came back to me very clear that if we go along with exemptions of boats through the excise tax, that the personal property tax would be much greater on a boat owner than what we have now. I would rather see it the way it is now. The personal property tax would be put back onto us. So when you vote today, I hope you vote against the amendment.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Old Town, Representative

Cashman, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

110 having voted in the affirmative and 3 in the negative, the motion did prevail.

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

The Chair laid before the House the following matter: RESOLVE, to Authorize the Commissioner of Mental Health and Mental Retardation to Continue to Employ Charles E. Meredith, M.D., as Superintendent of the Bangor Mental Health Institute (S.P. 510) (L.D. 1534) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Manning of Portland, retabled pending final passage and specially assigned for Tuesday, May 19, 1987.

The Chair laid before the House the following matter: An Act to Revise the Maine Medical Laboratory Act (S.P. 191) (L.D. 518) (C. "A" S-61) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Manning of Portland, retabled pending passage to be enacted and specially assigned for Tuesday, May 19, 1987.

The Chair laid before the House the following matter: Joint Order (S.P. 504) relative to Recalling Bill "An Act to Clarify the Description of Crooked River in Cumberland County and to Extend Special Protection to Outstanding Rivers to the Crooked River" (S.P. 38) (L.D. 26) from the Legislative Files to the Senate which was tabled earlier in the day and later today assigned pending the motion of Representative Greenlaw of Standish to reconsider whereby the Joint Order was indefinitely postponed in non-concurrence.

On motion of Representative Greenlaw of Standish, the House reconsidered its action whereby the Joint Order was indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, I withdraw my motion to indefinitely postpone.

The SPEAKER: The Representative from East Millinocket withdraws his motion to indefinitely postpone.

The pending question now is passage.

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: I hope you would vote against that motion. The reason I have been tabling this is that, hopefully, I would be able to straighten the Crooked River out but we haven't been able to come to any sort of compromise.

This bill came out of committee earlier this year with a unanimous "Ought Not to Pass" and I have been working with the Representative from Waterville, Representative Jacques, in trying to come to some type of compromise but have been unable to do so.

What this bill would do and what the committee's feelings were is that it would prohibit a dam on the Crooked River. Currently there is a hydro process that hydro developers have to go through in order to get a permit to build a dam. The majority of the

committee felt that they ought go through that process because, if they don't, this bill would open the door and I don't think the legislature would want to get into dealing with every dam that is proposed. That is why the majority of the committee was unanimous, that this bill should not pass.

What Representative Jacques wanted to do is put it in another section of the law, which basically would prohibit building of a dam. He and I still disagree with that proposal and that is why I would hope that you would vote against this motion.

Representative Greenlaw of Standish 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 passage of the Joint Order. This requires a two-thirds vote of the members present and voting. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 57

YEA - Aliberti, Allen, Bailey, Baker, Begley, Bickford, Bott, Brown, Curran, Davis, Dellert, Duffy, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Harper, Hichborn, Hickey, Holt, Ingraham, Jalbert, Kilkelly, LaPointe, Lawrence, Lebowitz, Look, Lord, MacBride, Macomber, Mahany, Matthews, K.; McPherson, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Paradis, P.; Parent, Pines, Racine, Rice, Richard, Ruhlin, Salsbury, Scarpino, Simpson, Small, Stevens, A.; Stevenson, Strout, B.; Tupper, Walker, Wentworth, Weymouth, Whitcomb, Zirkilton.

NAY - Anderson, Anthony, Armstrong, Bost, Boutilier, Callahan, Carroll, Carter, Cashman, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Dexter, Diamond, Dore, Dutremble, L.; Erwin, P.; Foster, Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hepburn, Hoglund, Hussey, Jackson, Ketover, Lacroix, Lisnik, Manning, Marsano, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Gara, Paradis, J.; Paul, Perry, Pouliot, Priest, Rand, Reed, Reeves, Rolde, Rotondi, Rydeil, Sherburne, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tamaro, Tardy, Telow, Thistle, Tracy, Vose.

ABSENT - Bragg, Chonko, Higgins, Hillock, Holloway, Jacques, Joseph, Kimball, Mills, Ridley, Seavey, Sheltra, Stanley, Taylor, Warren, Webster, M.; Willey, The Speaker.

Yes, 61; No, 70; Absent, 18; Vacant, 2; Paired, 0; Excused, 0.

61 having voted in the affirmative and 70 in the negative with 18 being absent and 2 vacant, the Joint Order failed passage in non-concurrence and sent up for concurrence.

Reference is made to (H.P. 40) (L.D. 43) Bill "An Act Relating to Initial Plates under the Motor Vehicle Laws"

In reference to the action of the House on May 14, 1987, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative MACOMBER of South Portland  
Representative CONLEY of Portland

Representative McPHERSON of Eliot

(Off Record Remarks)

On motion of Representative O'Gara of Westbrook, Adjourned until Tuesday, May 19, 1987, at nine o'clock in the morning.