

MAINE STATE LEGISLATURE

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

VOLUME II

FIRST REGULAR SESSION

May 26, 1987 to June 30, 1987

Index

An Act to Continue on an Annual Basis the Registration Fee Charged to Pesticide Manufacturers and Other Registrants in 1987 (H.P. 1162) (L.D. 1588) (C. "A" H-213)

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.

FINALLY PASSED

RESOLVE, Authorizing the Director of Public Improvements to Resolve an Encroachment on State Property in Hallowell (H.P. 1265) (L.D. 1731)

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

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

SENATE PAPER

Non-Concurrent Matter

LATER TODAY ASSIGNED

Bill "An Act to Amend the Civil Service Law to Set Standards for the Creation of Job Classification Specifications" (H.P. 1237) (L.D. 1689) which was passed to be engrossed in the House on June 2, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-127) in non-concurrence.

On motion of Representative Gwadodsky of Fairfield, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Prohibit Candidates from Receiving, Witnessing or Accepting Absentee Ballots" (H.P. 1254) (L.D. 1712) which was passed to be engrossed as amended by House Amendment "A" (H-217) in the House on June 2, 1987.

Came from the Senate passed to be engrossed in non-concurrence.

On motion of Representative Priest of Brunswick, the House voted to recede.

The same Representative offered House Amendment "A" (H-245) to House Amendment "A" (H-217) and moved its adoption.

House Amendment "A" (H-245) to House Amendment "A" (H-217) was read by the Clerk.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: As you recall recently, the will of the House was that we prohibit most paid persons from handling absentee ballots. I was concerned at that time about some of the language in that prohibition and with the help of the sponsors of that amendment, I have clarified the language in that amendment so I think now the language accomplishes what this House desires.

There are two points that ought to be looked at here. One is that governmental employees are exempted from their prohibition under Paragraph C, if their official duties require them to handle absentee ballots. We don't want, obviously, to have to put postmen in jeopardy nor clerks who have to handle absentee ballots in the course of their duties.

Note that the prohibition on candidates handling absentee ballots is still in effect in a prior paragraph.

Second, this does allow reimbursement for actual meals and mileage expenses. You still can't pay but

you can reimburse for actual meals and mileage expenses.

This amendment takes care of a number of objections that have arisen recently. I think it is a good amendment, I think it clarifies the language and I would urge you to adopt it.

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

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

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

Non-Concurrent Matter

Bill "An Act to Provide Adequate Compensation for Substitute Teachers and to Take into Account Local Ability to Pay" (H.P. 118) (L.D. 143) on which the Bill and accompanying papers were indefinitely postponed in the House on June 2, 1987.

Came from the Senate with the Majority "Ought to Pass" in New Draft under New Title Bill "An Act to Improve the Qualifications and Compensation of Substitute Teachers" (H.P. 1262) (L.D. 1725) Report of the Committee on Education read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-124) in non-concurrence.

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

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House recede and concur.

This is the bill which we heard two days ago in the House which we indefinitely postponed. On the recommendation of the Education Committee, we withdrew any reference in the bill to compensation. The bill now speaks strictly to additional qualifications for substitute teachers. We have spoken with the Maine School Management Association, they now have no difficulty with the bill.

I hope you will move to accept the motion.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to request a roll call on the recede and concur motion.

This bill as amended sets up standards for substitute teachers. If you live in a rural area or on a remote island, you may not have the qualified substitutes available. Proponents will argue that the commissioner will set up rules to address these exceptions. If there is to be a rule for every exception, then why do we need the bill in the first place? Perhaps so the sponsors can come back next year and say we have increased the qualifications for substitutes, now we must increase their pay.

Do not believe because the salary increase has been stripped off this time that all your superintendents approve of this bill. Maine School Management or at least when I talked to them last night is still opposed to this legislation. A number of superintendents in their letters also dealt with this. One here from Union 106 says, "Quite frankly, if this bill passes, you will wipe out most of my substitute list." Another one says, "While I like the intent to increase the quality of substitutes, I am concerned that it will decrease the quantity which is already too small. We presently have 18 approved substitutes of whom four have three years or less of college." Another one says, "This L.D. has the major potential for negative impact on education in a rural state like Maine. Most systems have a cadre of

trained, dependable and effective substitutes who may not carry the requisite college training as proposed in this bill and, therefore, leaves the school at the whim of a commissioner sitting in Augusta, Maine as to the availability of these people. Let me assure you that, when superintendents hire their substitutes, they begin at the top of their list with the most qualified candidates and work down. How can we make them hire what is unavailable to hire in the first place?"

I hope you will defeat this motion so then we can adhere.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: First, I would like to echo the concerns of the good Representative from Bath, Representative Small. In my conversation with Maine School Management last night, I was informed that they were still opposed to the bill in its present form.

However, the bill in its present form, while it may resolve problems for some, the money problem for my district and the concerns of the islands and probably that concern is transferable to any of the real rural areas, the major problem is still there. The problem is the available qualified people. Under the current regulations that we have now, I have a school superintendent on the Island of North Haven who very often acts as the substitute teacher himself because he has difficulty finding qualified people based on our current standards. If those standards are increased, the small pool of qualified substitutes he has will disappear. We have the same problems on the other islands, where qualified people that are readily available in urban and metropolitan areas just aren't there.

Instead of creating a situation where we would be improving the quality of education in these areas, we would be creating a situation where there would be no education. If you can't meet the standards, you can't have the substitute.

I have heard talk about the department and the regulations to take care of these special cases. Well, I have been here long enough to see three commissioners of the Department of Education and Cultural Services and I have dealt with many issues and the answer has always been -- well, those special cases, those strange places like the islands and the real rural areas, those special cases we can take of by regulation, don't worry about it. The first time, I didn't worry about it. The second time I did and I get more worried every time because they have never taken care of them by regulation. They are not aware (or don't wish to become aware of it) that those special conditions exist.

I have superintendents that spend almost as much time in Augusta as I do fighting with the department in order to be able to keep their schools open and provide a decent education for the children and the people that live on those islands. The only other option is to send them off the islands, to break the families up and send them off the islands. In some cases, this has been forced to happen because the state has come down and said, you don't have enough kids in your school, let's shut it down and we will all send them to private schools. We even had a plan where they wanted to bring them in by ferry -- an hour and a quarter each way by ferry, 45 minutes each way by bus, so they could go to a mainland school. That is real understanding of rural communities, real understanding of isolated areas. I am sorry but, until I see otherwise, I don't have the faith in the

Department of Education and Cultural Services to say that I can honestly feel they will take care of these situations.

Let's adhere on this bill, place it where it belongs, and let the department come back with their study and say what is going to be done then we can judge it. Until then, in all honesty, the only thing I see here for the residents of the islands and the residents of the rural areas is real problems and a real lowering of the quality of education in those areas that perhaps need it more than any of the other areas in this state.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: I have been a principal for 30 years and for 30 years I have had trouble getting substitute teachers. I have had people come into my office and say, "Here I have got a piece of paper saying I have been four years to college, that makes me a teacher." It doesn't. Some of the best substitute teachers I have had have been two year college people. They have been able to come into a class, they have been able to control the children, they have been able to give the lessons that should be given. If this bill passes, over half of the substitute teachers in my area will be eliminated and the half that you would eliminate are the best teachers, so don't pass this bill.

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

Representative HANDY: Mr. Speaker and Members of the House: The manner in which substitute teachers are selected under current law is simply true and wholly true regulations established by the Department of Education and Cultural Services.

On November 6, 1970, we asked three commissioners to review and make recommendations on how they would handle updating those recommendations which are over 16 years old and have not heard from any one of the past three commissioners. The substitute teacher sub-committee of the Education Committee last year, in both the Minority Report and the Majority Report, asked the Department of Education and Cultural Services to report back to the Education Committee. One report asked for a February 15th report and one asked for a May report. Still, we have heard nothing from the Department of Education and Cultural Services.

Being the primary educational policymaking body of the legislature, the Education Committee felt a responsibility to show leadership in this area. Therefore, the Education Committee, a majority of ten members, signed on to a report which updated those regulations and placed them into the law so there would be quality teachers every day of the school year. And so we would not have situations where someone would come into the classroom with simply a high school education, that probably being the first teacher selected, and calling for a study period. We are talking about quality education here and I am sick and tired of the red herrings being dragged across this saying that we are trying to diminish education. In those instances where superintendents find that there is a problem in getting someone of the highest possible level, we allow for situations where someone may hire someone who may not have the academic requirements.

We have removed the fiscal impact of this bill. I ask you, I plead with you, to put something into law so we can have some control over that and we can be assured that our needs are being addressed.

The SPEAKER: The Chair recognizes the Representative from Parsonsfield, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: On behalf of the majority that were appointed to the study committee, I request that you support their recommendation, that the State Department of Education and the State Board of Education report by January 15, 1988 to the Legislature on qualifications of substitute teachers and on experiences with availability of qualified substitutes during the pilot studies.

It is believed that the need for quality substitutes is likely to increase as teachers become more involved in certification and inservice activities. I urge you to support the motion to adhere.

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

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: You know folks, there is an old saying, "You got to do what you want to do with what you got to do with." You have been told here, a couple of days ago, and you have been told again today that there are not the bodies out there to do the job. Now, it stands to reason to me that any superintendent of schools or any principal who asks for a substitute teacher is going to try to get the best teacher available. If the best isn't available, he is going to try to get the best that is out in there the field to get.

I don't believe that by increasing the qualifications it is going to get more people out in the field to choose from. I urge you to eliminate or get rid of this bill.

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I was chairman of the substitute teacher study that we had a year or so ago and we decided at that time that the best way to handle a substitute teacher was on the local level. I believe that if we get involved in this now, it is just going to cause more problems for the locals to handle that problem. I would urge you to vote against the motion to recede and concur.

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

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: One of the ironies in the debate that we had last last week on the third tier teacher certification is that, when the master teacher is removed from the classroom to assume curriculum duties or pseudo-administrative duties, who goes into the classroom? A substitute teacher. The substitute teacher that goes into that classroom may not even have a high school diploma. I think we ought to think about that.

Mr. Speaker, I would like to address a question through the Chair to Representative Brown.

Representative Brown, as the chairperson of that subcommittee on substitute teachers, the question is, do you object to raising the qualifications for substitute teachers? And, if you do not, how, other than studying the problem as we seem prone to do this session rather than take action, how do you propose to raise the qualifications for substitute teachers?

The SPEAKER: Representative Bost of Orono has posed a question through the Chair to Representative Brown of Gorham who may respond if she so desires.

The Chair recognizes that Representative.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: No, I do not object to raising the qualifications of substitute teachers. I

believe wholeheartedly that it should not be done on the state level. I believe that most local units are now doing the very best they can with the substitute teacher problem. I can't see how passing this law is going to help matters at all.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Soucy.

Representative SOUCY: Mr. Speaker, Ladies and Gentlemen of the House: One of my responsibilities for 19 years was to hire substitute teachers. I can say that I hired one high school graduate in 19 years of employing substitute teachers. That happened to be a particular specified field. I resent that people who are responsible for hiring substitutes look for the cheapest ones they can get or the high school graduates. Believe me, when you start looking for substitutes at five-thirty in the morning or nine o'clock at night and you can't find one, you go to school the next day and you have a negotiated contract that says that you shall employ substitutes, and then the Teachers Association files a grievance against you because you can't find a substitute. That is a little on the flip side of the coin which they don't want to address but it does occur, believe me.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I am not an educator and I do not pretend to be one. I do know what my district does and I do know something about my local school system, I went through it myself, I had four children go through it. We put our faith in our superintendent and our principals. If we are not happy with what they are doing in our school district, we get rid of the superintendent or the principal. I believe that it is local control, it is where it belongs. If you are not happy with your substitute teachers and their qualifications, it is the fault of your superintendent and it is their duty to hire them and that is where we allow the superintendent to run the schools and not run them here in Augusta.

The SPEAKER: The Chair recognizes the Representative from LaGrange, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to have been superintendent of schools in Mrs. Murphy's district because I think we would have gotten along very well.

Over a period of 20 years, I hired a good many substitutes. I know just what the good gentleman meant when he said you call at five-thirty in the morning, you may have a list on the wall of a dozen substitutes and you find difficulty in finding one who isn't going shopping, that doesn't have to stay home with a sick baby, but you make the best choice that you can. I always made my choices for very selfish reasons, I always chose the best one available because the key to a successful educational program is the teacher. If the teacher makes a mistake, the burden for that mistake comes to rest on the superintendent's desk. For that reason, I picked the very best one that was available. I can see no way that a change in the law would improve the quality of the substitutes available. I think that the choice should be left at the local level.

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

Representative MCSWEENEY: Mr. Speaker and Members of the House: Getting a substitute teacher is one of the most difficult things in the world for a principal or a superintendent to get. If you have a math teacher out or a science teacher out, you

don't always get a math or a science teacher. This becomes the most difficult thing in the world to do. You try to get a college graduate, maybe two years of college, maybe some person going to college at night, so this becomes a difficult thing. The shop teacher — sometimes you have to get a fellow that went through an apprentice course, didn't go to college, come in for the shop teacher. This becomes a very difficult job but it is better to leave it on the local level than it is to advocate from the state.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Bost of Orono that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 104

YEA - Aliberti, Allen, Anthony, Baker, Bost, Carroll, Cashman, Coles, Conley, Crowley, Diamond, Dore, Gould, R. A.; Gurney, Gwadosky, Handy, Høglund, Holt, Hussey, Joseph, Ketover, Lacroix, LaPointe, Mahany, Manning, Matthews, K.; Mayo, McHenry, Melendy, Mitchell, Nadeau, G. R.; Nutting, O'Gara, Paradis, J.; Paradis, P.; Pouliot, Priest, Rand, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Stevens, P.; Tardy, Telow, Thistle, Tracy, Vose, Warren.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Carter, Chonko, Clark, H.; Clark, M.; Cote, Curran, Davis, Dellert, Dexter, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hale, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Holloway, Ingraham, Jackson, Jacques, Jalbert, Kimball, Lawrence, Lebowitz, Look, Lord, MacBride, Macomber, Marsano, Martin, H.; McGowan, McPherson, McSweeney, Mills, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Paul, Perry, Pines, Racine, Reed, Reeves, Rice, Ridley, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Smith, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Swazey, Tammaro, Taylor, Tupper, Walker, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirnkilton.

ABSENT - Boutilier, Hillock, Kilkelly, Lisnik, Michaud, Nadeau, G. G.; Richard, The Speaker.

Yes, 50; No, 91; Absent, 8; Vacant, 2; Paired, 0; Excused, 0.

50 having voted in the affirmative and 91 in the negative with 8 being absent and 2 vacant, the motion to recede and concur did not prevail.

Subsequently, the House voted to adhere.

CONSENT CALENDAR

First Day

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

(S.P. 415) (L.D. 1273) Bill "An Act to Maintain Lifeguard Services in State Government" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-119)

Under suspension of the rules, Second Day Consent Calendar Notification was given and passed to be engrossed as amended in concurrence.

(At Ease)

The House was called to order by the Speaker.

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

SENATE PAPERS

Ought to Pass in New Draft

Report of the Committee on Human Resources on RESOLVE, to Establish the Maine Commission to Review Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute (S.P. 225) (L.D. 607) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 588) (L.D. 1742)

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 read once.

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed in concurrence.

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An Act Concerning the Taking of Fingerprints and Submission to the State Bureau of Identification" (S.P. 289) (L.D. 816) reporting "Ought to Pass" in New Draft (S.P. 587) (L.D. 1739)

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 read once.

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed in concurrence.

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An Act to Modify Certain Sections of the Maine Criminal Code" (S.P. 438) (L.D. 1318) reporting "Ought to Pass" in New Draft (S.P. 586) (L.D. 1738)

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 read once.

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed in concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Conform the Maine Income Tax Law to the Internal Revenue Code of 1986" (H.P. 1082) (L.D. 1473) reporting "Leave to Withdraw"

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

On motion of Representative Diamond of Bangor, the following was removed from the Tabled and Unassigned matters: House Divided Report, Majority (10) "Ought Not to Pass" and Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-119) — Committee on Labor on Bill "An Act to Provide Collective Bargaining for Substitute Teachers (H.P. 523) (L.D. 707) which was tabled by the

Representative from Bangor, Representative Diamond, pending acceptance of either Report.

On motion of Representative Baker of Portland, the House voted to accept the Minority "Ought to Pass" Report, the Bill read once.

Committee Amendment "A" (H-119) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended and sent up for concurrence.

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

(At Ease)

The House was called to order by the Speaker.

ORDERS OF THE DAY
UNFINISHED BUSINESS

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

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

Bill "An Act to Improve the Teacher and Administrator Certification Law" (H.P. 1195) (L.D. 1629) (S. "A" S-78)
TABLED - June 2, 1987 (Till Later Today) by Representative DIAMOND of Bangor.
PENDING - Reconsideration. (Returned by the Governor without his approval)

On motion of Representative Diamond of Bangor, retabled pending reconsideration and later today assigned.

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

RESOLVE, Authorizing Dorothy Gammon to Bring Civil Action Against the State and Cumberland County (H.P. 1235) (L.D. 1687)
TABLED - June 3, 1987 (Till Later Today) by Representative DIAMOND of Bangor.
PENDING - Final Passage.

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

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

Bill "An Act to Establish a Moratorium on Land Leases Affecting Tree Growth Classification" (Emergency) (H.P. 743) (L.D. 1006)
TABLED - June 3, 1987 (Till Later Today) by Representative MICHAUD of East Millinocket.
PENDING - Passage to be Engrossed.

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

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

Bill "An Act to Improve Enforcement Procedures under the Land Use Regulation Law" (H.P. 1273) (L.D. 1740)

TABLED - June 3, 1987 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Engrossed.

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

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

Bill "An Act Relating to the Administration of the Maine Children's Trust Fund" (Emergency) (S.P. 585) (L.D. 1736)

TABLED - June 3, 1987 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Engrossed.

Representative Carroll of Gray offered House Amendment "B" (H-247) and moved its adoption.

House Amendment "B" was read by the Clerk and adopted.

Subsequently, the bill was passed to be engrossed as amended by House Amendment "B" (H-247) in non-concurrence and sent up for concurrence.

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

CONSENT CALENDAR

First Day

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

(H.P. 1006) (L.D. 1353) Bill "An Act to Refund County Fuel Taxes" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-246)

On motion of Representative Mayo of Thomaston, was removed from the Consent Calendar, First Day.

Report was read by the Clerk and accepted and the Bill read once.

Committee Amendment "A" (H-246) was read by the Clerk and adopted and the bill assigned for second reading later in today's session.

PASSED TO BE ENGROSSED

Bill "An Act to Amend the Juvenile Code Relating to the Questioning of Juveniles" (H.P. 1272) (L.D. 1737)

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

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 Martin of Eagle Lake, Recessed until twelve o'clock noon.

(After Recess - 12:00 p.m.)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Amend the Civil Service Law to Set Standards for the Creation of Job Classification Specifications" (H.P. 1237) (L.D. 1689) which was tabled earlier in the day and later today assigned pending further consideration.

On motion of Representative Gwadosky of Fairfield, tabled unassigned pending further consideration.

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

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 Conserve Agricultural Production Capability and to Promote Harmony between Agriculture and Adjacent Development" (H.P. 1276) (Presented by Representative LISNIK of Presque Isle) (Cosponsors: Representatives NUTTING of Leeds, RIDLEY of Shapleigh, and Senator PERKINS of Hancock) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed
Sent up for concurrence.

PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Amend the Laws Governing Statements Made to a Juvenile Caseworker" (H.P. 1279) (Presented by Representative TAYLOR of Camden) (Cosponsors: Representatives MANNING of Portland, STROUT of Windham, and Senator BUSTIN of Kennebec) (Governor's Bill)

(Committee on Judiciary was suggested.)

Under suspension of the rules, the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith.

PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE

RESOLVE, to Name the Androscoggin River Bridge in Honor of United States Servicemen who were Prisoners of War and Missing in Action (H.P. 1275) (Presented by Representative BICKFORD of Jay) (Cosponsors: Representatives MOHOLLAND of Princeton, CALLAHAN of Mechanic Falls, and Senator ERWIN of Oxford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Committee on State and Local Government was suggested.)

Under suspension of the rules, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith.

SECOND READER
As Amended
Later Today Assigned

Bill "An Act to Refund County Fuel Taxes" (H.P. 1006) (L.D. 1353) (C. "A" H-246)

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

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

The Chair laid before the House the following matter: Bill "An Act to Improve Enforcement Procedures under the Land Use Regulation Law" (H.P. 1273) (L.D. 1740) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Michaud of East Millinocket offered House Amendment "A" (H-248) and moved its adoption.

House Amendment "A" was read by the Clerk and adopted.

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

The Chair laid before the House the following matter: Bill "An Act to Require Basic Written Contracts for Home Construction Work" (S.P. 352) (L.D. 1044) (C. "A" S-108) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Allen of Washington, recommitted to the Committee on Business Legislation in non-concurrence and sent up for concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 593)

Ordered, the House concurring, that Bill, "AN ACT to Change the Name of the Bureau of Civil Emergency Preparedness to the Maine Emergency Management Agency," H.P. 1194, L.D. 1626, be recalled from Engrossing to the Senate.

Came from the Senate, read and passed.
Was read and passed in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 502) (L.D. 1519) Bill "An Act to Amend the Laws Relating to the Maine State Museum" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-134)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Paper was passed to be engrossed as amended in concurrence.

MATTER PENDING RULING

Bill "An Act to Establish the State Bureau of Identification as an Independent Bureau within the Department of Public Safety" (S.P. 68) (L.D. 135) TABLED - June 2, 1987 by Speaker MARTIN of Eagle Lake. PENDING - Ruling of the Chair.

The SPEAKER: The Chair would rule that the redraft is, in fact, not germane and not properly before the body.

The pending question now before the House is acceptance of the original bill substituting the bill for the Report.

Subsequently, the House voted to substitute the original bill for the Report, the bill read once.

Under suspension of the rules, the bill was read the second time, passed to be engrossed in non-concurrence and sent up for concurrence.

(Off Record Remarks)

(At Ease - 2:00 p.m.)

The House was called to order by the Speaker.

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

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Amend the Wells-Ogunquit Community School District Charter" (S.P. 446) (L.D. 1360)

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

Unanimous Leave to Withdraw

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Provide Funding for Business Energy Outreach" (S.P. 112) (L.D. 285)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Continue the Rebate Programs for Small Business Weatherization and Furnace Modernization and Homeowner Furnace Modernization" (S.P. 196) (L.D. 553)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Provide Matching Energy Grants to Small Businesses, Municipalities and Nonprofit Organizations which Receive Public Funding" (S.P. 204) (L.D. 560)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Provide Funds for Winterization Projects in Piscataquis and Penobscot Counties" (S.P. 301) (L.D. 870)

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Bill "An Act to Require Testing of Dioxin Levels at the Maine Energy Recovery Corporation" (Emergency) (S.P. 562) (L.D. 1679)

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

COMMUNICATIONS

The following Communication:

MAINE COUNCIL ON VOCATIONAL EDUCATION

40 Water Street, Unit 1

Hallowell, Maine 04347

June 4, 1987

Member, Maine State Legislature

State House

Augusta, Maine 04333

Dear Member of the Legislature:

I am pleased to present to you the Maine Council on Vocational Education's report on coordination between the Job Training Partnership Act and the Carl Perkins Vocational Act.

MCVE is required to research and comment on this coordination every two years.

We hope that you will contact us if you wish to discuss this report more fully or if you have any questions.

Sincerely,
S/Christine Szigeti-Johnson
Executive Director

Was read and with accompanying report ordered placed on file.

CONSENT CALENDAR

First Day

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

(H.P. 1078) (L.D. 1465) Bill "An Act to Reestablish the Vehicle Rental Agency in the Department of Conservation" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-251)

Under suspension of the rules, Consent Calendar Second Day Notification was given, the House Paper was passed to be engrossed as amended and sent up for concurrence.

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

SENATE PAPER

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-133) on Bill "An Act Relating to the Base for the State Excise Tax under the Motor Vehicle Laws" (S.P. 80) (L.D. 166)

Signed:

Senators: TWITCHELL of Oxford
DOW of Kennebec
SEWALL of Lincoln

Representatives: SEAVEY of Kennebunkport

DUFFY of Bangor
INGRAHAM of Houlton
ZIRNKILTON of Mount Desert
JACKSON of Harrison

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

Signed:

Representatives: CASHMAN of Old Town
SWAZEY of Bucksport
NADEAU of Saco
MAYO of Thomaston
DORE of Auburn

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-133)

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 Minority "Ought Not to Pass" Report.

What this bill does is change the method of calculating the excise tax for heavy vehicles from the manufacturers list price to a tax based on the actual sale price.

I guess for the signers of the "Ought Not to Pass" Report, we had a couple of problems with this. The first one is that what you are doing is differentiating in the way that this excise tax, which is a tax really that is assessed for the privilege of operating over the main highway system, you are going to create a standard whereby heavy duty trucks are assessed differently than other vehicles are. When, in fact, it is the heavy duty trucks that cause most of the damage to the highway in the first place.

You are also going to give an advantage to large trucking contractors who can buy a number of trucks at one time and negotiate a sale price with a manufacturer that would be less than the sale price of his competitor who is a smaller operator and who has to buy his trucks, one or two at a time.

The third problem we had with this, which I think is perhaps the most important, is that this bill results in a loss of revenue, not to the state but to the towns and cities in the state where the excise tax on these vehicles is paid.

I know that my good friend, Representative Jackson, is going to stand up after me and give you all kinds of reasons why this bill ought to pass and many of them are good valid reasons, but the bottom line for me as one legislator who had to sign this report, is that I think that at a time when municipalities are faced with an unprecedented amount of pressure on their revenue sources that we would be very ill advised to cut the funds that go to cities and towns in the State of Maine through the excise tax.

I would urge you all to accept the Minority "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 to oppose the motion of my good friend from Old Town, Representative Cashman. I would hope that you would vote against the Minority "Ought Not to Pass" Report and accept the Majority "Ought to Pass" Report.

I would like to give you a few of the reasons why. The good gentleman from Old Town is correct, the excise tax is a fee which is imposed on vehicles in this state in part for the use of the highways and in part to help communities with their local tax burden as it relates to highways in their communities.

What we have happening today in this state is we have people who are buying these larger vehicles and opting to register those vehicles in other states on the eastern seaboard. You might ask why.

Maine's excise tax law does not recognize the purchase price, it recognizes the list price which is placed on that vehicle by the manufacturer. So one could go to their local dealership and negotiate a purchase of one of these vehicles we are talking about and they could negotiate a deal where they might be able to buy a vehicle for \$63,000 to \$80,000 (whereas that vehicle could cost or list out from anywhere from \$80,000 to \$100,000.) They could go to New Jersey and license that truck for \$875. To license the same truck in this state -- I am going to use the \$100,000 vehicle, and that is what I am using for New Jersey -- but here in Maine with a \$100,000 vehicle, on the first year if that happens to be the list price, the assessment is 24.5 mills and then we have the \$840 registration fee. So, it comes in around \$3400 or \$3500 to excise and register that truck here in Maine.

It is not difficult to see why we are seeing some of these independent contractors and some of these contractors who have their nexus here in Maine

relocating and incorporating in New Jersey or claiming their residence in New Jersey to license their vehicles and still use our highways, neglecting to pay the excise here in this state and the registration fee.

It is my belief and I believe the majority of the signers believe that if we provide some relief to these truckers that they will continue to excise their vehicles here and not look to excise them to the south of us and will continue to register their vehicles in this state. You say, well it really doesn't make much difference, but when you are talking anywhere from \$1,000 or \$1,500, it does make a difference. I think that is where the concerns, particularly for myself, come with this bill, the majority report.

I do recognize that there is a potential of the communities losing some dollars but the potential is even greater if we don't provide this type of incentive or provide some relief to encourage these truckers or these businesses to excise and register vehicles in this state.

I think that the loss of revenue that the gentleman spoke of would negate that loss of revenue because it would encourage people to stay here and the people to register and excise their vehicles here.

I share those very same concerns that I mentioned a little earlier of the taxes at the local level but my concerns is even greater that we are losing these people and it has been proven that we are losing these people. We had one fellow testify who was, I won't say a trucker but he owns a company here in Maine, and he has already set up an nexus in New Jersey to excise and register his vehicles there. Yet, he will still be using our highways and we have heard the debate where these trucks carry enough fuel so they can fuel up just to the south of us in Portsmouth, New Hampshire and go to the north end of the state and back out of state again and fuel up outside and then continue down. What they pay in this state is very, very small.

I think it is a good consumer bill and it encourages people (I believe) to continue to use our state, continue to employ people here and continue to pay taxes here. Therefore, I would hope you would defeat the pending motion and accept the Majority "Ought to Pass" Report.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I hope today that you have listened to the Chairman of the Taxation Committee when he explained the inequities of this bill. I speak today as an excise tax collector. This bill, if enacted, would put those people who purchase vehicles over 18,000 pounds in a category where a person could go to a dealer -- I will use examples to explain it but let's assume that a person was going to buy a vehicle for \$80,000 and he might be able to buy that for a clean sale for \$75,000 -- let's compare this person with another company that goes to this same dealership, buys the same vehicles, and let's assume he buys maybe eight or ten vehicles and he buys them for \$68,000. I have seen them come in on sales tax forms. You go to the list book that we use today and that vehicle that he may have bought for \$75,000, maybe lists for \$72,000. The inequity here is that we are treating both those people in the present law at the \$72,000 figure.

If this bill were to pass, I could have two individuals come in to my office with two different figures on cost price and I would have two different excise tax figures. This is wrong, ladies and gentlemen.

Just a few minutes ago, I called my girl back in the office and I told her about this bill because I knew it was coming up this afternoon. She is a person that doesn't speak very loud as a rule -- I am not going to tell you what she said over the phone.

I am not concerned about the loss of revenue to the municipalities or the loss to the state, the concern I have is the inequity.

The Representative from Harrison mentioned that this is a consumer bill. This is not a consumer bill for the little independent truckers. This is a bill for a company who can negotiate better prices to save some money on his excise tax.

Ladies and gentlemen, I don't think now or any time in the future that we ought to be dealing with two sets of standards on excise tax.

To go a little bit further -- how are you going to tell people, once this is enacted, you deal with new automobiles. We are going to be faced with people coming and telling us that we should be doing the same thing for Cadillac, Lincoln and for Oldsmobile on the first year. I don't think we should be supporting this bill and I would hope you would support the chairman of the committee.

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

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, would like to echo the thoughts of the previous speaker and would just add this to it. Anybody that has had anything to do with assessing properties in the various towns throughout the state knows that the secret to good assessing is to measure everybody with the same yardstick. You certainly wouldn't be doing it in this particular case if you go along with the "Ought to Pass" Report.

Another thing I might bring out, I believe there is a \$1,500 maximum set on this and it could conceivably be that you would pay more the second year than you did the first year, if you are buying some of these high priced trucks.

I would urge you very, very strongly to go with the "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 would just like to clarify a point if I may. The previous speaker, Representative Ridley, indicated that there was a ceiling on the bill of \$1,500. The ceiling is no longer on the bill, the committee amendment lifted the ceiling completely off the bill.

If I might just respond to Representative Strout's comments -- I think if one ascribes to the fact that you should be paying taxes on something that you didn't actually purchase or you didn't pay, I think is incorrect, I think that is the wrong approach to take. I think if one is able to buy a vehicle and he is able to buy vehicles in fleet price, that is the market place.

The people who testified for the bill -- some were independent truckers, some were company-owned truckers of that nature and nobody opposed the fact that there was going to be discrepancies in prices, the differences in prices. I think it is a fact of life. It is a fact of life that I might be able to go out and sell a vehicle that I might trade and I might be able to walk into that dealership with the cash in hand and offer him \$1,000 or \$2,000 below the list price. If he accepts that, he accepts that. It is likewise with the fleet owners, the people who are dealing with fleet prices. I don't think there is anything wrong with that. There is nothing wrong with that regarding the town clerks, they have a

figure that they go by and that is 24.5 mills in the first year, 17.5 mills the second year and it goes down the line. It is not going to be difficult for the municipal clerks to make that assessment.

I just feel that it is consistent and it is good and I think that it makes sense. If we can encourage these people to continue to excise and license these vehicles in this state and not encourage them to go to the south of us to do it, these are dollars, folks, that we need, dollars the communities need, dollars the state needs. If we continue to do this with the tax policy that is not correct, and I don't believe it is, we are going to encourage these people to do that. Nobody benefits in this state from a policy like that.

I would hope that you would oppose the motion before us and accept the Majority Report.

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

Representative STROUT: Mr. Speaker, I would like to pose a question to the Representative from Harrison, Representative Jackson.

If a person were to purchase a 1987 truck that is over 18,000 pounds and, in the process he was trading a 1983 vehicle and the purchase price and the difference was \$40,000, what figure would you use under this amendment? Would you use the \$40,000 figure or would you use the list price, if this were to pass?

The SPEAKER: Representative Strout of Corinth has posed a question through the Chair to Representative Jackson of Harrison who may respond if he so desires.

The Chair recognizes that Representative.

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: Maybe I didn't understand his question correctly -- you say he is trading his vehicle in? The trade-in is not allowed. If the price is \$40,000, if that is what he is trading and the list price is \$40,000, and it hasn't been negotiated down, then that will be the price that will be carried on to the sales tax form and that would be the one that would be carried to the municipal office. The trade-in would not be allowed to be part of the sales price.

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

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: Maybe the gentleman from Harrison didn't understand the question correctly. The \$40,000 is the trade-in figure. My question is, if that new truck listed for \$78,000 and the 1983 was \$38,000, so that you had a cost figure of \$40,000, under this amendment that you are supporting, what figure would you use for the 1987 excise tax purposes? Would you use the \$78,000 that is listed or would you use the \$40,000?

The SPEAKER: Representative Strout of Corinth has posed an additional question through the Chair to the Representative from Harrison, Representative Jackson, who may respond if he so desires.

The Chair recognizes that Representative.

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I thought I made that clear in my last statement, it would be the \$78,000.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: There are a couple of key phrases that I think we ought to think about before we vote on this bill. One is property tax relief. The chairman of my committee mentioned that we would be eroding some sort of tax base that the municipalities so dearly need right about now.

Representative Jackson mentioned that some of these people might look to other states, namely New Jersey. I don't think New Hampshire, New Jersey, Delaware, Pennsylvania has anything to do with this bill. We are in Maine, this is the Maine legislature, we are talking about over 400 cities and towns in Maine. I don't believe this is a very good policy. I would strongly urge you to stick with the pending motion.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Jackson and myself worked on this amendment in committee after listening to testimony, realizing that maybe something good could come out of the original bill. A lot of the testimony in committee was related to the fact that -- yes, there were truckers leaving the State of Maine and registering in New Jersey.

Part of the testimony that hasn't been mentioned today was that one of the truckers from Bangor said, "You know I bought my first new truck in the State of Maine this year." He said, "They are finally getting very competitive with New York and the other states as far as the dealers in large trucks." He said, "I bought this truck for \$68,000 and it lists for \$95,000." He said, "If I were in New Jersey, just the excise taxes would have made me less competitive in competing with the New Jersey trucks who are doing all the business in the State of Maine." He said, "If I move to New Jersey and, I may have to just to be competitive, I will probably buy my trucks down there, it would just be easier, although they are all competitive, it is just going to make the book work that much easier."

I saw in this bill the possibility to increase, maybe, some of the sales, maybe some more help, believe it or not, right here in the State of Maine by being able to buy in the State of Maine.

The fiscal impact, I honestly believe, is negated by those that we can keep in the State of Maine and actually may be able to attract to the State of Maine. We are going to lose them so, if we are losing a little money on attractiveness of bringing and keeping the truckers here, then instead of losing them, we are probably financially neutral.

I think one of the other points that hasn't been brought up is that one of our bus companies up in northern Maine said, we buy a lot of new buses. We have to service these areas, we like to replace our old buses with new buses, this is part of the bill too, that the new buses -- he might buy five buses, I think he said, and if he buys five at a time, he is only going to pay, like Representative Strout said, he might get a better break and he may only pay \$80,000 a piece for them but he still has to pay the excise tax on \$100,000 the first year.

When you take a look at this amendment to try to do something to encourage business, and I think this bill does that in a bipartisan spirit, I think this is what we should do.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: There are all kinds of comments that I could make on this bill and I will try to make a few of them very briefly.

The first thing that comes to my mind is we are talking about an excise tax. An excise tax is a tax on value. A sales tax is a tax on the purchase of something. I think that you should keep that in mind when you are considering this legislation.

I think you should also consider in your mind something that the Taxation Committee has done for

the trucking industry, following what this House decided to do with the airline industry, we have adopted legislation that will be coming forth from the committee that will exempt leased vehicles from the sales tax. It is something that the trucking industry wanted very much and the committee has voted out unanimously. So the committee is not unsympathetic to the needs of the trucking industry.

I think about the town clerks throughout the State of Maine who are going to be royally confused if we pass this legislation. There are a few town clerks that sit around me at my seat here in the legislature and I have heard them screaming about this bill and I understand what they are telling me and I believe them.

This bill, in my opinion, does absolutely nothing, absolutely nothing to express the concerns that the Representative from Harrison and the Representative from Bangor have suggested. This will not prevent, in my opinion, the transfer of trucks and the transfer of businesses out of state because of competition problems. This bill will not solve that problem, if in fact, it truly exists.

You look at this bill and you say to yourself, why 18,000 pounds? Why can't the pickup truck person get the same benefit? Why can't the person buying the Ford Escort, like the one I drive, get the same benefit? It is not fair.

My final thought is a thought that we have discussed in this House on numerous occasions. It brings to mind the idea of the used car dealer. What's going to be going around this state for statements of bill of sale, if this bill passes? It is going to be amazing.

I urge this House to adopt the Minority Report and send this bill where it belongs.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I think the thing that has not been mentioned about this being a consumer bill that we should be very well aware of, in the Statement of Fact, after the first year, the base for the tax will return to the makers list price.

If anyone thinks that this is a consumers bill and they will keep anybody in the State of Maine for more than one year, then I think perhaps they are living in a dream world.

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

Representative WHITCOMB: Mr. Speaker, fellow Members of the House: I rise today to support the Minority Report for one reason. Although I applaud the effort to certainly encourage the trucking companies to register their vehicles in Maine, the purchasers of large numbers of trucks, I cannot agree with the notion of doing that by creating an inequitable tax policy. The basis of our tax and our excise tax is now fair, it is based on a standard, it is easily understood. In my opinion, if we want to get to a solution of what some are claiming to be excessive excise taxes, is that we get to the base of the problem and that is that it requires the towns to depend upon that money for their services. If we want to attack that problem, we should attack it in some type of property tax relief and not by creating an inequitable tax policy.

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

A vote of the House was taken.

74 having voted in the affirmative and 27 in the negative, the Majority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

Non-Concurrent Matter

Bill "An Act to Provide for Election of the Public Advocate" (H.P. 524) (L.D. 708) on which the Minority "Ought to Pass" Report of the Committee on State and Local Government was read and accepted and the Bill passed to be engrossed in the House on June 3, 1987.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on State and Local Government read and accepted in non-concurrence.

Representative Carroll of Gray moved the House insist and ask for a Committee of Conference.

Representative Wentworth of Wells moved that the House recede and concur.

Representative Carroll of Gray requested a roll call on the motion to recede and concur.

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 Jay, Representative Bickford.

Representative BICKFORD: Mr. Speaker, Ladies and Gentlemen of the House: I would urge your support of the motion to recede and concur. We discussed this bill yesterday on the House floor and I don't believe it is necessary to debate the issue again. But real quickly, the Majority Report of the State and Local Government and now the other body has rejected this measure; therefore, I would urge your support of the motion to recede and concur.

The SPEAKER: A roll call has been ordered. The pending question is the motion of the Representative from Wells, Representative Wentworth, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 105

YEA - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan, Curran, Davis, Dellert, Dexter, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Hussey, Ingraham, Jackson, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, Martin, H.; Matthews, K.; McPherson, Murphy, E.; Murphy, T.; Norton, O'Gara, Paradis, E.; Parent, Pines, Reed, Rice, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Soucy, Stanley, Stevens, A.; Strout, B.; Strout, D.; Tammaro, Taylor, Telow, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAY - Aliberti, Allen, Anthony, Baker, Bost, Boutillier, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Diamond, Dore, Duffy, Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hickey, Hoglund, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Macomber, Mahany, Manning, Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Racine, Rand, Reeves, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Smith, Stevens, P.; Swazey, Tardy, Thistle, Tracy, Vose, Walker, Warren, The Speaker.

ABSENT - Crowley, Hillock, Kimball, Nicholson, Priest, Richard, Stevenson.

Yes, 68; No, 74; Absent, 7; Vacant, 2; Paired, 0; Excused, 0.

68 having voted in the affirmative and 74 in the negative with 7 being absent and 2 vacant, the motion to recede and concur did not prevail.

Subsequently, on motion of Representative Carroll of Gray, the House voted to Insist and ask for a Committee of Conference.

Non-Concurrent Matter

Bill "An Act to Provide Collective Bargaining for Substitute Teachers" (H.P. 523) (L.D. 707) on which the Minority "Ought to Pass" as amended Report of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-119) in the House on June 4, 1987.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Labor read and accepted in non-concurrence.

Representative Joseph of Waterville moved that the House Insist and ask for a Committee of Conference.

Representative Willey of Hampden moved that the House Recede and Concur.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion in order to Insist and ask for a Committee of Conference. Today, we are talking about collective bargaining for substitute teachers. Current law prohibits all temporary or so-called temporary employees from collective bargaining. This, in effect, excludes substitute teachers from the bargaining process. I want to say right here that the sponsor of this bill, being the gentleman that he is, had this bill tabled Unassigned while the House dealt with the issues surrounding substitute teachers. However, because we failed to talk about qualifications or compensation for substitute teachers, it is now time to deal with L.D. 707.

As a signer of the "Ought to Pass" Report of L.D. 707, I say that it is up to us to look at this very objectively and to realize that we have people doing the same tasks, doing all of the same work required by the regular employees of the municipality or school district. They are asked to work at study halls, to do study plans, asked to do lunch room duty, and they are asked to do playground duty, all of the same tasks of regular teachers. The work rules for them are identical to the work rules for regular teachers. Because we are talking about uniform work rules, I am talking about uniform privileges and that is to allow them to bargain on the local level.

I am also talking about the morale of a work force. A morale of a work force that in effect would be better if these people were allowed to bargain for compensation in order to have a decent wage. I believe it is time that we dispelled the notion that underpaid and unprotected workers are good for business or beneficial for schools or good for the education of our children. Excellence in education is something that we have heard here since 1984. If that is our goal, I believe that this is only one small part of the whole.

So I do urge you to defeat the motion to recede and concur in order for us to Insist and ask for a Committee of Conference.

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

Representative BEGLEY: Mr. Speaker, Men and Women of the House: As a former substitute teacher, I rise today and encourage you to vote for the recede and concur motion. The superintendent and the school district where I live -- and I have discussed the substitute issue in length -- and I agree with the point that was brought out in an earlier debate on our other bill to keep the control over substitute teachers at the local level.

It has been brought to you folks today and I can concur very, very strongly with the fact that substitute teachers are not that easy to find at 5:30, 6:30, or 7:00 in the morning, and I do think that we have a problem regarding that but I do not think this collective bargaining is definitely going to help that issue. I believe that it would be better for this to be still controlled by our superintendent and local school boards and principals and have faith that they are going to use the best folks that they can possibly get at the hours that they have to get them.

Part of the Statement of Fact in this bill says that only people who have received assurance of continuing employment would be eligible to be included in negotiations.

I suggest to you that, if this bill passes, it may have a negative effect and make it more difficult for substitute teachers to get this assurance. Therefore, I do not believe that we should be voting for collective bargaining for substitute teachers at the state level and I encourage you to vote for the recede and concur motion. I would also remind you that this is a ten to three report out of the Labor Committee -- ten folks saying "Ought Not to Pass" and three "Ought to Pass."

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I feel as a member of the committee an obligation to explain what happened in committee and why some of us signed the Majority jacket of ten to three saying "Ought Not to Pass." When it came before us, we discussed the qualifications of substitute teachers. We decided at that point that the qualifications had to be standardized and that we would not do anything on the pay levels for collective bargaining until those qualifications were straightened out by this body or locally. Well this House said earlier, we are going to decide to let the qualifications be set at the local level. So be it. I am in agreement with that, if that is what the House decides to do. But let fair be fair. Let's also let the salary be decided at the local level also. If it is to be decided at the local level, the collective bargaining process, the time honored system of settling things at the local level, is that collective bargaining process, so let us use the collective bargaining process to establish the salaries as well as the qualifications.

I hope you will vote against the motion to recede and concur.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I want to make it clear that I am one of those that voted "Ought Not to Pass" on this bill, but I have since changed my mind. My reasons are, we had a bill to provide binding arbitration and the House saw fit to say, no. We had a bill that said, we will increase the compensation for part-time teachers \$5 a day, big deal, and the House said, no. In that bill, we also had qualifications. So we took the \$5 out because some people said, we want local control. We said, fine,

but let's keep the qualifications in and the House said, no.

Well, ladies and gentlemen of the House, if you want local control, then you ought to give the opportunity, and I am saying give them the opportunity (you are not forcing them to join unions) to join the unions and to bargain with their local superintendents and school boards. That is why I am changing my mind and I hope that you do vote against the motion before the body so that we can Insist and ask for a Committee of Conference and talk it over with the other body.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will go with the recede and concur. This is a local issue, I can speak only from a local standpoint because I called my school department. In my town, maybe you will say they are one of the more fortunate ones, that is through no fault of their own. There are three scales of pay -- \$30, \$35, and \$40 a day. \$30 for an aide replacement, \$35 according to the degree of education, and \$40 a day for a degree of education in subject matter.

Some substitute teachers may be used in our area but not just in a single school system. They may work in our school system, which is not a S.A.D. They may go to North Berwick for a day, they may go to Waterboro for a day, they may even go to New Hampshire for a day, they may go to Kennebunk for a day, wherever they are called, they go.

I do not believe the quality is lacking, but to say that we would approve of a bargaining unit for part-time or a substitute, I will use part-time because substituting in most cases is a part-time position, we have to be cognizant of the fact that, this part-time or substitute teacher may work one or two days in the system. He or she may work one or two days in another system. Who is going to determine which bargaining unit this person should be working under? Who is going to determine that no other temporary or part-time, one day or two day employees, should not come under a bargaining unit within a municipality? I ask you to consider all of these alternatives before casting your vote but I do urge you to support the recede and concur.

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

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think it came out loud and clear when we discussed this in work session that it would be rather difficult and would probably lessen the number of substitute teachers available in that a great many of them do teach in more than one area, more than one S.A.D., and more than one school district. It would be virtually impossible for that individual to negotiate with several districts. In fact, I don't think it is possible, mostly because of the union dues that would be necessary.

It seems to me that if we do adopt this thing, it is going to lessen the number of them that are available. It is a local control issue with their salaries now when they work and is controlled locally. If they belong to a union or not, they are still controlled locally.

Mr. Speaker, I ask for a roll call.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: I suppose I must apologize to you for bringing this very subversive idea before you. It is a subversive idea because I modeled it after an existing law from a very subversive state, my home

state of New York. The fact of the matter is, if it is working in New York, the towns of New York deal with very similar towns as they do here in the sense that substitutes may teach in various different towns. Now, let me explain to you and rebut some of the comments about why this bill won't work.

First of all, on the issue that the substitute must receive reasonable assurance of work -- this is a standard notice that is given at the end of the school year to substitutes telling them that their jobs will be waiting for them when they return next year. Now I doubt that the school districts will cease to give out these notices and assure the substitutes of their jobs because, if they don't assure them of their jobs next year, they will have to pay unemployment compensation. Let's face it, the districts do not want to pay unemployment compensation. So those subs will come back. It is as simple as that.

The reason that that language is in the bill is that by giving a letter to a substitute saying that they will have their job back, you recognize that that substitute is an employee of your school or school administrative district. That language was modeled after New York State law. That is how it works.

Second of all, subs who work for different units -- right now, part-time professors at the University of Maine may join a collective bargaining unit. There are part-time professors who teach at more than one college or university. I happen to know one, he teaches at three different colleges. He belongs to the collective bargaining unit where he spends the most time. If a substitute spent the most time, let's say in the town of Sanford as opposed to the town of Springvale, then obviously, they are going to have a stake in that bargaining unit and join that bargaining unit. It is as simple as that.

Who determines the bargaining units? The Labor Board determines the bargaining units, that is how that is going to work. That is no great deal. In fact, the problem is that substitute teachers do not have any political clout. You don't find lobbyists for them roaming the hallways, you are not going to get a great deal of phone calls from organized substitute teachers, it simply doesn't exist. But I submit to you that, if you are really sincere about local control, and by the way I discussed this with my school superintendent, I have to report we disagree, but if you are really sincere about local control, you have to look at local control, not only from the point of view of management, but of the employees.

What better vehicle can you have for local control than collective bargaining, where the local employees of that school or school administrative district can legally sit down at the bargaining table and work out salaries, working conditions, and grievance procedures with those locally elected and school officials? We need to have that kind of local control. That is my definition of local control, collective bargaining, where the substitutes have some legal representation, a voice in the decisions that affect their working conditions and salaries. That is local control. No state mandate. In fact, if we were to enact collective bargaining, there is nothing that says a sub has to join or form a unit. That is left up entirely to the substitute teacher to make that decision -- local control.

Now in 1983, this body debated an increase in substitute teacher pay. There are people that argued that the state should not mandate the increase in substitute teacher pay. One of the arguments given by the Representative of Kennebunk on May 13th in

defense of the state mandating substitute teacher pay was that, not only did that Representative argue in favor of it, but that he said these teachers are not covered by collective bargaining.

Earlier today, we rejected raising the minimum pay and even rejected standards. Now what else are you going to do? Because if you don't decide to give the substitutes the avenue of collective bargaining, then nothing is done. Nothing is done. If you are having trouble attracting good people, it is because they are frustrated by not having a real alternative, a real chance to voice their grievances and improve the working conditions. If you give these employees who are not represented by a union right now, who do not have a teachers association fighting for their interests, if you give them that opportunity, they will be able to improve the pay and working conditions and you will find that you are not going to have a problem attracting good substitutes, they will be there.

I hope we will vote against the motion for recede and concur so we can Insist and perhaps salvage this issue.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: In the six or seven years that I was on the School Committee in Lisbon, I negotiated no less than five contracts with the teachers. If this is enacted, you will create a nightmare. Can you imagine having provisions that certain teachers must have so many days a year of substituting? Can you imagine a superintendent or a principal at six o'clock in the morning saying, Mrs. Jones has had four days last month, I must get Mrs. Smith. The teachers that do substitute for the regular teachers, when they walk into that classroom, are not denied any rights that are given to a full-time teacher. How are you going to undo this nightmare? Who will represent them?

Before they can get collective bargaining, you must have what is called a collective bargaining unit. That means that they will have to join the Maine Teachers Association or one of the teachers associations. Then you will start the bargaining. Rest assured that, if the collective bargaining starts and the substitute teachers have a contract, I can just imagine the superintendents and principals, when a teacher calls up some cold morning and says, I have a cold, how do I get the contract to myself to find out that I am not violating the contract? And don't forget, in most of your contracts, it is pretty hard to cross crafts, they call it. In the contract, it will say that a math teacher will not teach English or vice versa. So Mrs. Jones, a good English teacher, (but you need a math teacher) you won't be able to get one because it says you shall not cross crafts. I would urge you to support the motion to recede and concur.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Matthews.

Representative MATTHEWS: Mr. Speaker, Members of the House: I have worked with others for the past two years trying to get a palatable bill concerning substitute teachers approved by this House. We thought we finally had a bill which stood for quality teaching with adequate compensation. This House voted against the bill, so we took out the compensation. We tried to get a vote on the quality and we lost that. I believe now is the time to vote for collective bargaining for substitute teachers. I hope for a Committee of Conference.

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

Representative CONLEY: Mr. Speaker, Members of the House: I usually don't get up on labor issues but after Representative Jalbert's comments, I would just like to make a few comments of my own. What he suggested was that what we would have to give the subs, is merely suggestions. Management has to agree to things, that is what the collective bargaining process is all about. Management doesn't have to give up anything.

You know it is amazing, it is always the same old horror stories that are floated out whenever management has to get into the collective bargaining process. These are the same horror stories that were floated out when the votes about collective bargaining came up in this body for county employees, for state employees, for municipal employees. What is fair for them is fair for substitute teachers, let's give them the right to collectively bargain and vote against this motion.

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 Biddeford, Representative Dutremble.

Representative DUTREMBLE: Mr. Speaker, Men and Women of the House: I would like to see the House recede and concur on this. It is surprising to see me saying that the House should recede and concur but I have been negotiating contracts for the city of Biddeford for quite a few years. We negotiate contracts with the school department, fire department, street department and many others.

I don't think this is a good bill.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis

Representative PARADIS: Mr. Speaker, Men and Women of the House: We have heard in graphic detail this morning that nightmarish situation that exists out there. Presently, we can staff our schools for thousands of days with substitutes that need not even have a high school diploma. We heard it is because the degree-trained personnel do not exist out there. This afternoon's discussion is telling me that degree-trained personnel exists but we are treating them so shabbily that they do not want to come into our schools. We can't have it all.

The SPEAKER: The pending question before the House is the motion of the Representative from Hampden, Representative Willey, that the House recede and concur.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Men and Women of the House: I request permission to pair my vote with the Representative from Brunswick, Representative Priest. If he were here, he would be voting no; I would be voting yes.

The SPEAKER: The pending question before the House is the motion of the Representative from Hampden, Representative Willey, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 106

YEA - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Brown, Callahan,

Curran, Davis, Dellert, Dexter, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Gurney, Hale, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Ingraham, Jackson, Jalbert, Lawrence, Lebowitz, Look, Lord, MacBride, Manning, Marsano, Martin, H.; McPherson, Melendy, Murphy, E.; Murphy, T.; Nadeau, G. G.; Norton, Nutting, Paradis, E.; Parent, Perry, Pines, Pouliot, Racine, Reed, Rice, Ridley, Rotondi, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Smith, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tardy, Taylor, Telow, Thistle, Tupper, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton.

NAY - Allen, Anthony, Baker, Bost, Boutilier, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Diamond, Dore, Duffy, Erwin, P.; Gould, R. A.; Handy, Hickey, Hoglund, Holt, Hussey, Jacques, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Macomber, Mahany, Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Michaud, Mills, Mitchell, Moholland, O'Gara, Paradis, J.; Paradis, P.; Paul, Rand, Reeves, Rolde, Ruhlin, Rydell, Simpson, Stevens, P.; Swazey, Tamaro, Tracy, Vose, Walker, Warren, Weymouth, The Speaker.

ABSENT - Crowley, Hillock, Kimball, Nadeau, G. R.; Nicholson, Richard.

PAIRED - Gwadosky, Priest.

Yes, 80; No, 61; Absent, 6; Vacant, 2; Paired, 2; Excused, 0.

80 having voted in the affirmative and 61 in the negative with 6 being absent, 2 vacant and 2 paired, the motion did prevail.

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

ENACTORS

Emergency Measure

Tabled and Assigned

An Act to Clarify the Organization of the Maine Sardine Council (S.P. 572) (L.D. 1707) (H. "A" H-223)

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

On motion of Representative Mitchell of Freeport, tabled pending passage to be enacted and specially assigned for Friday, June 5, 1987.

PASSED TO BE ENACTED

Emergency Measure

An Act to Correct an Incorrect Personnel Description in the Law Relating to the Board of Pesticides Control (H.P. 1200) (L.D. 1635)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Emergency Measure

Tabled and Assigned

An Act to Amend the Sardine Tax (H.P. 1253) (L.D. 1711)

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

On motion of Representative Mitchell of Freeport, tabled pending passage to be enacted and specially assigned for Friday, June 5, 1987.

ENACTOR
Emergency Measure
Later Today Assigned

An Act Relating to Periodic Justification of State Government Programs under the Maine Sunset Laws (H.P. 1061) (L.D. 1436) (C. "A" H-215)

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

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

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

I would pose the question as to whether this bill contains changes in real estate licensing law for real estate sales associates and if it does, could someone explain to the House how this rule changes that?

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

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: This does deal with real estate licensing changes. However, we deleted from that bill the qualifications and continuing education parts of the new licensing law.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair. I would like to know if there are any changes in this bill dealing with the licensing of real estate agents, not what was deleted. Are there changes in the bill?

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

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: To answer your question, yes, all of those qualifications for those who sell real estate have been deleted from this piece of legislation.

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

PASSED TO BE ENACTED
Emergency Measure

An Act to Clarify the Definition of Intermittent State Employees (H.P. 1118) (L.D. 1521)

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. 104 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 Converting West Forks Plantation into the Town of West Forks (H.P. 1132) (L.D. 1542)

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. 107 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED
Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1987 (H.P. 1269) (L.D. 1733)

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

FINALLY PASSED
Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1987 (H.P. 1270) (L.D. 1734)

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

PASSED TO BE ENACTED

An Act Making Changes to the Dietitian Registration Act (S.P. 169) (L.D. 473) (C. "A" S-112)

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

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

Representative RACINE: Mr. Speaker, Men and Women of the House: I move that L.D. 473 and all its accompanying papers be indefinitely postponed.

You are probably wondering why I am moving indefinite postponement on the dietitian bill and I would like to explain my reason why I am doing this.

Licensing is a process by which the state grants permission to an individual to engage in a given occupation upon finding that the applicant has attained the minimal degree of competency required to ensure that the public health, safety and welfare will be reasonably well protected. Licensing makes it illegal for anyone who does not hold a valid license to practice in that profession; thus, the power to license can be used to deny individuals their legal opportunity to earn livelihoods in their chosen field. This is an awesome power, one that must be exercised judiciously. Licensing is needed to protect society from incompetence and charlatan's. Consumers can rightly expect licensees to be highly trained, well qualified, and be confident on the licensees' ability to perform efficiently and professionally.

There are certain professions that have to be regulated to ensure that the public health, safety and well being will not be harmed. Some professions that fall into this category are physicians, surgeons, optometrists, nurses, electricians and so forth and so on.

In my opinion, dietitians do not fall in this category. The people that were at the public hearing did not demonstrate in any way, shape or form that

the public has been harmed in the past and that the public may be harmed in the future.

I want to make one thing clear -- that my comments are not misunderstood at this time -- I believe in the worthiness of the profession of dietetics, they are dedicated, hardworking professionals and provide a valuable function to the community.

However, we must remember what the function of licensing is, it is to protect the public and ensure that they will not be exposed to a danger from unscrupulous practitioners. This was not demonstrated at the public hearing. Those in attendance, members of the profession, who presented weak arguments in favor of the bill and opponents will more or less individuals involved in the weight reduction programs and were quite concerned that dietitians were trying to phase out their programs. Testimony was not received from any consumer groups stating to the fact that someone had been harmed by dietitians who were not qualified to perform that service.

In 1985, we went through the same exercise that we are presently going through now. Dietitians came in with a bill for licensure. The original bill, again, did not exempt diet centers or weight centers where counselors are providing nutritional advice to their enrollees. This exemption was included in a committee redraft in 1985, the bill was debated quite extensively and was passed by both bodies. However, on the 20th of May in 1985, it was vetoed by the Governor because it had not been demonstrated that the public would be harmed if the licensure bill was passed but licensing would decrease the availability of practitioners; hence, higher costs for services provided and restrictions on optimum utilizations of personnel. Approximately two weeks thereafter, to be exact on the 10th day of June, we were presented a bill which was titled "An Act Affecting the Status of Agencies Within the Department of Business and Occupational and Professional Regulations." This was an omnibus bill. Contained within that bill was some changes on the rate of compensation for different board members. There were some changes made in the security division, changes made in the plumbing board and at the tail end of the omnibus bill there was a registration for dietitians. In other words, this thing was snuck in at the tail end of the session. Since they were not able to obtain a licensing bill, they came in with a registration bill.

The Board of Dietetics was established about 7 or 8 months ago and the registration policy has only been in effect approximately 6 to 8 months. They have not given that board an opportunity to determine whether or not registration would suffice. I am a strong believer of protecting the consumer. I am just as strongly opposed to protecting professional groups when they are the major beneficiaries of licensure law. Licensed practitioners gain an exclusive right to deliver services. They may then ask the board, made up of fellow practitioners, to use its power to restrict entry into the field by setting higher educational standards and experience, administering difficult tests and erecting barriers to keep out practitioners from other states. Thus, the licensed group may establish a monopoly condition which enables it to control the availability and cost of services provided. When this happens, the consumer has to pay more for those services.

Please consider whether or not the unlicensed practice of dietitians poses a serious risk to the consumer's life, health and safety or economic well being. I don't believe that you can reach that conclusion, it was not demonstrated at the public

hearing. As I stated previously, the only individuals that were in favor of the bill were the current board members of the registration board. They testified because they were the only ones who would ultimately benefit from a licensure bill. I don't believe that this is needed, I don't think it is necessary and if we do pass this bill, ultimately, the consumer will suffer because the price of the services will go up.

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

Representative MCHENRY: Mr. Speaker, Men and Women of the House: I do hope that you vote for indefinite postponement of this bill. All you good people who are here and have talked about the free enterprise system -- you know, when you talk about free enterprise, you say, don't put on any licensing, don't regulate -- by passing this bill, you are going to regulate, you are going to license these people. So, if you believe in the free enterprise system, you should vote to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Sidney, Representative Bragg.

Representative BRAGG: Mr. Speaker, Men and Women of the House: For those who are left in the House, contrary to what is usually said, I guess I will say I rise to intentionally add more debate to this bill.

I have trouble with the concept. The thing that has bothered me with this piece of legislation is on the fourth page of the bill where it mentions about the licensing of the practice of dietetics and making it a Class E Crime to hold yourself out to be a practiced dietitian outside of holding yourself out to be a licensed dietitian.

I guess my feelings could best be expressed about the type of action that we are taking with the story that I recall -- that I can twist the words around a little bit and put it into the context of the act of licensed dietitians -- if you should take all the licensing boards and agencies in the State of Maine and lay them end to end, that probably would be a good play to leave them. I am bothered by the concept that we have a problem that needs to be corrected by licensure. I commend the committee for what they did in making the bill in a form where it would probably offend as few people as possible. I really have no problem with the concept of dietitians being licensed if that is what they really feel. You can call that a conflict of what I have already said but I will take that criticism. If they want to license themselves, fine. But I draw the line on licensing the profession and I would encourage you to vote to indefinitely postpone this bill.

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

Representative TELOW: Mr. Speaker, Men and Women of the House: It's about time for me to get up, I rarely do get to speak to you people but where I am a cosponsor of the bill, I feel that I have to make some remarks so you will vote against the indefinite postponement.

I want you to help me to support and pass this bill. The Business Legislation Committee worked very hard to meet the goals of the public protection and public interest. I thought we had a unanimous committee report but I hear differently today. All parties interested in this legislation supported it.

In my community, dietitians work in our hospitals, our nursing homes and serve individuals and businesses. They are an important part of the health care team, working with doctors and nurses and others. The services of the dietitians are very much in demand. Indeed, we should have a good licensing law on the books.

I think back to several years ago when I was on the Business and Commerce Committee, and my good friend from Biddeford spoke about 1985 when my good friend from Van Buren, Representative Martin, sponsored this bill — yes, it passed both Houses but, unfortunately, we did reach a stumble-block in one other place.

Again, as I said, I would like to have your support for the unanimous work of our committee and the important and necessary changes in this L.D. Again, I appeal to you — as I said, I very rarely get up here and speak but I am behind this bill 100 percent and I hope I will have your support today. My remarks have been brief but I hope they have meant something to you.

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

Representative ANTHONY: Mr. Speaker, I would like to pose a question through the Chair to any member of the Business Legislation Committee if I may.

My question is, is there a public health purpose or some other important public good being served by requiring the licensure of dietitians. What is the underlying rationale why dietitians need to be licensed? I haven't heard that here today.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: The answer to the question is yes, an important public health purpose is being served, at least the unanimous vote of our committee said that. We believe very strongly that in preventative medicine and the fact that preventative medicine indeed helps keeps the costs of health care down and more and more of our physicians are recommending that heart patients, diabetics, pregnant women, et cetera, obtain the services and guidance of a professional dietitian, one who has been to college for four years, has a degree.

The feeling in the medical profession and our committee was in agreement that preventative medicine goes a long way in, not only having healthy bodies around the state, but also in keeping the ultimate and final costs of health care down. That was our compelling reason as far as when someone asks the question, what is the compelling public purpose that is being served here? We believed wholeheartedly that it was, indeed, a health issue and that it inspired preventative medicine, and in the long run, would keep health care costs down.

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

Representative ANTHONY: Mr. Speaker, Members of the House: The Chairman of the Committee has answered my question in part, but I believe there is still more that remains unanswered in my mind, and that is, I think we have heard why we need good dietitians in this state. What I don't know is, are there a lot of quacks out there that are holding themselves out to be dietitians or is there some other reason why we have to go through the licensing process? I understand the importance of the use of dietitians and the dietetic approach as good preventative medicine, but what is the rationale for making sure that everybody, who holds himself or herself out to be a dietitian, be licensed?

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

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I think there is a little bit of confusion out there. The state currently registers dietitians. This law simply brings into conformity what we are doing for other professions. Rather than calling them registered, doctor, or whatever, right now we call them registered dietitians. It was causing some confusion in the field because there is a national group of registered dietitians.

We are simply bringing them into conformity as we have other health care professionals, bringing them under the licensing boards. We have nearly forty or more in the state. So, this is really bringing them into conformity. They currently have a board in operation. They currently pay to be registered in this state. All of this is on-going.

We already decided as a legislature two years ago that that was a good idea. We simply are pulling them into conformity — the dietitians, as other groups have been pulled in.

I would like to mention also that a Unanimous Report out of the Audit and Program Review Committee this year recommends similar action be taken in the areas of barbers, cosmetologists, foresters, and architects.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to the question as to whether or not this would serve a public purpose. I would like to read to you a portion of the veto message of two years ago, and I won't bore you with all of the details, but just a paragraph. It goes like this: "In application of these tests" and what we were talking about was whether or not the public would be harmed, whether or not a requirement existed for dietitians to be licensed. It reads: "Leads to the conclusion that this bill serves no public purpose. In fact, all that this bill would accomplish is the enhancement of the status of the occupational group which is in and of itself a desirable goal but which is, in my opinion, not adequate reason for the bill to become law."

Incidentally, there are only fourteen other states that license dietitians. There are only fourteen of them. Maine, based on my notes that I have here, would be the fifteenth state. It has not been demonstrated, like electricians, plumbers, and other professional groups, that this group has to be licensed.

At the public hearing, a question was asked: "What does a dietitian do when not working in a hospital, someone that works out in the field?" The answer was, they help doctors, they help people with their diets, and they were questioned specifically: "Give us an example." Someone that may have high blood pressure has to be on a special diet. The doctor would refer that individual to a dietitian that practices in a private environment. I have had high blood pressure since 1976, and being a military retiree, I have consulted many different physicians and, when they do take the blood pressure and it is a little bit high, they say "Racine, you have to cut down your intake on salt." Normally, they will give me a form that will list that type of food that has a high salt compound. I have never been referred to a dietitian. I can read, I know what I can eat and what I cannot eat.

Actually, the dietitians that are being used are primarily working in a hospital environment. Administrators that hire dietitians make sure that they are qualified. Again, as I stated previously, by licensing dietitians, they would probably make it

harder to get into the field. This would increase the costs, and we would all have to pay for the costs eventually. I do hope that you will support the motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: I simply want to say, as a retired public health nurse, that dietitians have to know a great many complicated things about the human body, physiology, and organic chemistry. Not only is a good dietitian extremely important in the hospital caring for medical and surgical patients' diets, but she is very important as an advisor to the school health programs — Head Start programs for the diets of children who perhaps suffer from certain congenital defects, diseases that affect the digestive system and that sort of thing.

I can tell you from experience having worked in a hospital and out in the field as a public health nurse, that dietitians often know a great deal more about the physiology of the digestive system and how we make use of vitamins, minerals, proteins, and all of those good things, than many doctors and many nurses do. I guess my surprise was that Maine does not now have a licensing method for our dietitians, but I do think it is a good idea for us to join those fourteen states as we learn more and more about how important diet is in this world.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I heard testimony over and over again on this very issue. I heard it two years ago. Two years ago, the case was presented so that we gave a partial acceptance to that, no matter how devious the method was as described by my friend and co-representative on that committee. It was a political move, and who here can say that we will not utilize that and enjoy that privilege given to us.

However, addressing the concern, no one mentioned the need for dietetics and the expertise of these dietitians in the public service, to answer Representative Anthony's concern. In geriatrics, the elderly are not as fortunate as Representative Racine to have those sophisticated services offered to him because he offered his services to this nation. I feel that this is in the public service, this is in the public interest, this is in the public realm that needs to be addressed professionally, accountably. It can only be done by licensure. I believe they earned this. They showed a dedication in testimony where they were given direct, direct responsibility from the medical profession to be sure that these diets were followed, that these diets were offered.

A person that has hypoglycemia must follow a very strict diet and these people are given these diets by the doctors through these dietitians. I see no conflict in any way, shape, or manner as far as public service is concerned. Perhaps at the time that the Governor vetoed this bill, the case was not presented as it was at this time. I urge you to defeat the motion to indefinitely postpone.

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

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: We had quite a session on this bill. The bill did come out we thought unanimously, with one exception. As far as licensure, I definitely feel that it is protective actually. It is upgrading the profession. As far as my good friend Mr. Racine is concerned, he was looking to hear about some harm with the present system. We have interrogated a lot of systems

including osteopaths, ophthalmologists, and what have you. The last thing you are going to hear from any profession are their faults because they don't come forward and rat on each other (if you pardon the expression.) They hold their misgivings to themselves. We just thought unanimously (or pretty near unanimously) that this was a step forward and that is why we concurred and went along with the bill. Frankly, I cannot see any harm with the way it has been presented and I hope that you vote against the motion.

Representative Martin of Eagle Lake requested a roll call vote.

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

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

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: Don't think for one minute today that all you are doing is a little housekeeping measure to bring this bill into conformity with other licensing laws. You are making a great change here today. Today, you have the opportunity to create a new crime. I would like to read to you what that crime is going to be. If one of your constituents comes to you and says, "Am I breaking the law?" Perhaps you will be able to respond.

If we pass this bill today, it is going to be against the law to do this. You listen to these words carefully and see if you understand what they mean, see if your law enforcement agency, if you are a legislator, see if you can tell your constituents that that constituent is breaking the law. If we pass this bill, it is going to be against the law to do this.

It is going to be against the law "to assess the health, physical, psychological, social, cultural and economic needs and conditions if they affect the nutrition of an individual in applying scientific principals of nutrition to ensure their proper nourishment, care, and education." Now if you do one of those things, you are going to be breaking the law. This is fairly serious business. We have to decide what exactly is the purpose of licensure.

We are supposed to be protecting the health and welfare of the public. Normally, the first criteria you use is whether the storehouse of information is within the common knowledge of the common man. It is my contention that dietetics is a very specialized academic matter when it comes to hospital care. When it comes to people who are already under the treatment of a physician, the person with high blood pressure, the anorexic, the diabetic, yes it is important that they have top professional care in their treatment. Those people who need that are already under the care of the physician. The physician is going to be referring to a dietitian perhaps who he is able to confirm has had the necessary training to advise his patients.

For the rest of us, for the man and woman on the street, the storehouse, the information that most of us use, or don't use, even though it is right, is a common source of knowledge. We are getting ready to create a new Class E Crime today. We are going to be able to tell people, you are breaking the law, we are going to be able to fine them, we can put them in

jail. We are going to be able to give a board subpoena powers. It is no small matter.

There has to be an overwhelming public need for us to create a new crime to say to people, you can't do this because if you do, you are violating the law of our state. It is my contention that the practice of dietetics does not rise to that level. They are fine people, I respect all the dietitians. We worked on this bill two years ago when it was vetoed by the Governor.

The bill does two things, it goes too far by making it a Class E Crime and then, in the same breath, it doesn't go far enough because it exempts the very people who should be captured by the law. Representative Holt was right. You do need trained people who can advise children in Head Start, pregnant women, those people are exempt from this law. They are not covered. The very people that you want to have the training are exempt from the law. It doesn't go far enough in the areas it should, it goes too far when it shouldn't. I urge the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I respect my colleague's opinion, it is one she has expressed consistently since being a member of the committee who opposed this bill's enactment two years ago. But I would like to urge this House this afternoon to vote against the indefinite postponement of this bill and support the unanimous committee report.

I would like to reiterate some of the statements that I made earlier in saying yes, we felt a public purpose was indeed being served, that people are going to dietitians, people are relying on dietitians' advice for their own health and well being. There are people in this state practicing dietetics as registered dietitians right now.

This law simply conforms them as it does as in other boards with nearly the same language to other professions providing health care. It also changes some of the language with regard to who would be exempted by this law. It is not our intent to register people who work in Weight Watchers, Diet Centers, Shackley or Nutri-System or any of those other systems. None of those groups, in fact, hold themselves out to be professional dietitians. As a matter of fact, all of those organizations, as part of the contract, recommend that you see a physician, that you be referred to a physician prior to engaging and participating in those programs.

The original bill was enacted in 1985 by both Houses of the Legislature and, indeed, vetoed by then Governor Brennan. It came back as in the spirit of compromise (I guess) with the Executive Branch, registered dietitians.

This bill simply changes the term "registration" to "licensure." It exempts people in related areas such as Weight Watchers, as I have mentioned. Again, we believe that dietetics, people who are employed by hospitals and nursing homes as health care professionals, indeed, should be licensed. It is good public policy. I would urge you to vote against the indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Sidney, Representative Bragg.

Representative BRAGG: Mr. Speaker, Ladies and Gentlemen of the House: Now that most everybody is back here on the floor after having their cup of coffee and their hot dog with beef parts wrapped in a white flour roll, we can get back down to business in talking about diets. After the comment that was made by the Representative from Portland, it just reminded

me of something I felt I should share with you because it might give you a perspective of where I am coming from. I am coming at this from a different direction than some of you. I would just like to relate this.

About nine years ago, I was developing tremendous problems with arthritis and bursitis in my shoulders, and as you know, I am a farmer. My livelihood depended on my ability to use my arms and my body. I recognized that I was in trouble. If I had followed the instructions of the doctor that I went to at that time, I would have, for the last nine years, been on Motrin or some other form of anti-arthritis medicine. Through the grace of God and other circumstances, I was led to a group of people that promotes a different kind of diet that I must add would be exempted under this bill, but yet, promoting practices and the use of nutrition, vitamins and supplements in a way that would not be promoted by the people that would be licensed under this bill.

Because of the changes that I made in my diet, that condition in my body was not only halted, but completely reversed. I have had no recurrence, and with that experience behind me, and with the knowledge that I have gained from that experience in the last few years, I must ask, if you had lived through that experience, how would you feel in voting on a bill like this that would give tremendous credibility to some extent among every other practice of diet? But yet, if I had continued in that practice, I feel quite sure to this day that I would have been an arthritic cripple.

Representative Racine of Biddeford was granted permission to address the House a third time.

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to clarify one point. It has been mentioned that we had a unanimous committee report on this. It appears that two members of my committee are a little bit concerned that I would be on a unanimous report and come out here on the floor and fight to kill the bill. The Chairman was informed, if they wanted to put out a unanimous report, it wouldn't bother me, but I reserve the right to be able to debate this on the floor and try to kill it.

Two years ago, I was opposed to the bill and when we had the public hearing, I did not hear anything that would have made me change my mind. Usually, I try to keep an open mind on most of the items that I am involved with, but it just so happened I had an open mind, but I was not convinced to change it.

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 Biddeford, Representative Racine, that L.D. 473 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 107

YEA - Bragg, Brown, Clark, H.; Clark, M.; Davis, Duffy, Farnum, Hepburn, Jackson, Jalbert, Joseph, Lacroix, McHenry, Mills, Moholland, Murphy, E.; Parent, Paul, Racine, Rand, Rotondi, Salsbury, Scarpino, Sherburne, Simpson, Smith, Soucy, Stanley, Stevens, P.; Strout, B.; Thistle, Vose, Weymouth, Zirkilton.

NAY - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Baker, Begley, Bickford, Bost, Boutilier, Callahan, Carroll, Chonko, Coles, Conley, Cote, Curran, Dellert, Diamond, Dore, Dutremble, L.; Erwin, P.; Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Harper, Hichborn, Hickey, Higgins, Hogle, Holloway, Holt, Hussey, Ingraham, Jacques, Ketover, Kilkelly, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McPherson, McSweeney, Melendy, Michaud, Mitchell, Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Perry, Pines, Pouliot, Reed, Reeves, Rice, Ridley, Rolde, Ruhlin, Rydell, Seavey, Sheltra, Small, Stevens, A.; Stevenson, Strout, D.; Swazey, Tamaro, Tardy, Taylor, Telow, Tracy, Tupper, Walker, Warren, Webster, M.; Wentworth, Whitcomb, Willey.

ABSENT - Bott, Carter, Cashman, Crowley, Dexter, Hillock, Kimball, Nicholson, Priest, Richard, The Speaker.

Yes, 34; No, 104; Absent, 11; Vacant, 2; Paired, 0; Excused, 0.

34 having voted in the affirmative and 104 in the negative with 11 being absent and 2 vacant, the motion did not prevail.

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

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

PASSED TO BE ENACTED

An Act Authorizing Restitution in Civil Penalty Actions (S.P. 323) (L.D. 951)

An Act to Clarify the Department of Conservation Laws (S.P. 452) (L.D. 1379) (H."A" H-220 to C. "A" S-98)

An Act to Extend the Sunset Provision of the Maine Revised Statutes, Title 5, section 17004 (S.P. 498) (L.D. 1515)

An Act to Ensure that the General Public does not have Access to Licensed Games of Chance (S.P. 525) (L.D. 1577) (C. "A" S-113)

An Act to Amend the Laws Relating to Community Living Arrangements (S.P. 580) (L.D. 1723)

An Act to Revise and Update Certain Fish and Wildlife Laws (S.P. 581) (L.D. 1724)

An Act to Create the Maine Health Policy Council (H.P. 496) (L.D. 666) (H. "A" H-219; C. "A" H-206)

An Act to Extend the Boundaries of the Presque Isle Sewer District and the Presque Isle Water District (H.P. 952) (L.D. 1281) (C. "A" H-214)

An Act to Clarify the Requirements for the Payment of Insurance Claims (H.P. 1159) (L.D. 1585)

An Act to Regulate Freshwater Fisheries in Coastal Waters (H.P. 1252) (L.D. 1710)

An Act to Ensure the Availability of Group Accident and Sickness and Health Insurance to Retired Teachers (S.P. 570) (L.D. 1703) (H. "A" H-233)

An Act to Increase Local Control of Certain Waste Water Discharges (H.P. 114) (L.D. 139) (C. "A" H-216)

An Act to Revise the Percent for Art Act in Public Buildings (H.P. 498) (L.D. 668)

An Act to Amend the Potato Marketing Improvement Fund Law (H.P. 815) (L.D. 1089) (C. "A" H-222)

An Act to Allow the Governor to Order Emergency Activation of the Guard in Advance of an Imminent Disaster (H.P. 1063) (L.D. 1446)

An Act to Improve Disclosure of Consumer Leases (H.P. 1122) (L.D. 1525)

An Act to Establish a State Cost-share Program for Salt and Sand Storage Facilities (H.P. 1135) (L.D. 1545) (C. "A" H-221)

An Act to Create Immunity from Liability (H.P. 1137) (L.D. 1547)

An Act to Amend the Maine Condominium Act (H.P. 1157) (L.D. 1583)

An Act to Amend Maine's Abandoned Property Laws (H.P. 1198) (L.D. 1633)

An Act Relating to Local Bridges (H.P. 1259) (L.D. 1718)

An Act to Provide for the Preservation and Care of Burial Places and Memorials for the Dead (H.P. 1258) (L.D. 1719)

An Act Concerning Property Tax Exemptions for the Blind, Veterans and Disabled Veterans (H.P. 1260) (L.D. 1720)

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

ENACTOR

Later Today Assigned

RESOLVE, Creating a Watershed District Commission (S.P. 261) (L.D. 742) (S. "A" S-118 to C. "A" S-65)

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.

FINALLY PASSED

RESOLVE, Compensation to Sharon Trafton Duthic for Damage to her Car Caused by an Escapee (H.P. 471) (L.D. 638) (C. "A" H-210)

RESOLVE, Authorizing the Commissioner of Marine Resources to Convey an Easement over Certain State Land (H.P. 836) (L.D. 1127) (C. "A" H-224)

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

The Chair laid before the House the following matter: "An Act Relating to Periodic Justification of State Government Programs under the Maine Sunset Laws" (H.P. 1061) (L.D. 1436) (C. "A" H-215) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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.

(Off Record Remarks)

(At Ease - 5:30 p.m.)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEES
Unanimous Leave to Withdraw

Representative CROWLEY from the Committee on Economic Development on RESOLVE, Establishing a Commission to Study the Linkages between Education and Economic Development (H.P. 735) (L.D. 986) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(H.P. 350) (L.D. 449) Bill "An Act to Implement the Recommendations of the Joint Select Committee for Learning Disabled Children" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-253) (Representative GOULD of Greenville - of the House - abstaining)

(H.P. 962) (L.D. 1291) Bill "An Act to Implement the Recommendations of the Driver Education Evaluation Program Study" (Emergency) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-254)

Under suspension of the rules, Second Day Consent Calendar Notification was given, the Bills were passed to be engrossed as amended and sent up for concurrence.

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

SENATE PAPERS

The following Joint Order: (S.P. 596)

Ordered, the House concurring, that Bill, "AN ACT Relating to Adult Education," H.P. 893, L.D. 1194, be recalled from Engrossing to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

(Off Record Remarks)

On motion of Representative Perry of Mexico, Adjourned until Friday, June 5, 1987, at nine o'clock in the morning.

Senate called to Order by the President.

Prayer by the Honorable Georgette Berube of Androscoggin.

SENATOR BERUBE: When some one asked him a question, "Teacher, which is the first commandment in the law?" He said to him "You shall love the Lord with all your soul and with all your mind. This is the great and first commandment." A second is like it: "You shall love your neighbor as yourself." On these two, depend the laws.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Relating to Adult Education"

H.P. 893 L.D. 1194

(C "A" H-201)

In Senate, June 1, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-201) AND HOUSE AMENDMENT "A" (H-243) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

Non-concurrent Matter

Bill "An Act Relating to Catering Services under the Liquor Law"

S.P. 569 L.D. 1702

In Senate, May 29, 1987, PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-244) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

House Papers

Bill "An Act to Better Accommodate Over-order Milk Pricing"

H.P. 1274 L.D. 1741

Comes from the House referred to the Committee on AGRICULTURE and ORDERED PRINTED.

Which was referred to the Committee on AGRICULTURE and ORDERED PRINTED, in concurrence.

COMMUNICATIONS

The Following Communication:
COMMITTEE ON AUDIT AND PROGRAM REVIEW
ONE HUNDRED AND THIRTEENTH LEGISLATURE
June 3, 1987

Honorable Charles P. Pray
President of the Senate
113th Maine State Legislature
Augusta, Maine 04333
Dear President Pray,