

# MAINE STATE LEGISLATURE

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

**VOLUME III**

**FIRST CONFIRMATION SESSION**

August 21, 1987  
Index

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987  
Index

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987  
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**SECOND REGULAR SESSION**

January 6, 1988 to March 24, 1988

**ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
50th Legislative Day  
Wednesday, March 23, 1988**

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

Prayer by Father Valmont Gilbert, St. Bridget's Catholic Church, North Vassalboro.

The Journal of Tuesday, March 22, 1988, was read and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Leave to Withdraw

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Require Motor Vehicle Ignition Interlock Devices for Persons with Restricted Driving Privileges Involving Drugs or Alcohol" (S.P. 878) (L.D. 2281)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Develop a Program for Prenatal Detection of Handicapping Conditions" (S.P. 890) (L.D. 2302)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Amend the Juvenile Code" (S.P. 901) (L.D. 2337)

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

Divided Report

Majority Report of the Committee on Utilities on Bill "An Act Establishing the Maine-Canada Energy Cooperation Act" (S.P. 256) (L.D. 729) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Establishing Maine Energy Policy" (S.P. 962) (L.D. 2553)

Signed:

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

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

Signed:

Senators: ERWIN of Oxford  
WEBSTER of Franklin  
Representatives: HOLT of Bath  
BAKER of Portland

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

Reports were read.

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

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

Representative BAKER: Mr. Speaker, Men and Women of the House: I would like to address a couple of points about this issue because I really feel that it is not the type of issue that should simply sail through here without some kind of comment. In fact, the policy that is behind this particular bill is probably one of the most important policy decisions that will be made regarding energy future for this state.

The bill before us is not the original bill that was submitted to our committee. In fact, I will be very forthright and say to you that this bill, as it is before us now, is much better than what was originally submitted to our committee.

Now you are probably wondering, why did you sign against it? I signed against the bill primarily because of the time that the bill was being presented. Timing is very important when other people are to interpret the actions of this legislature. There is a lot more behind this bill than simply what is printed. For example, if this bill were to be passed, it would be interpreted as a legislative endorsement of the Quebec-Hydro project. Even though the Statement of Fact says it is not an endorsement, it will be interpreted as an endorsement.

I suppose if the bill were to fail, it would be interpreted as a rejection of the Quebec-Hydro project. Personally, I am not opposed to the Quebec-Hydro project. In fact, my support for the Quebec-Hydro project has been made stronger due to the actions of this body concerning energy conservation standards. If I had any doubt about Quebec-Hydro or its validity, it was laid to rest two days ago. But, the jury is still out. Right now, this matter is before the Public Utilities Commission, they have yet to rule as to whether or not Central Maine Power will purchase Quebec-Hydro.

There are times I feel that this body should set policy for the PUC to follow, broad-based policy. There are times when I feel the Public Utilities Commission should be left to render its judgment on a specific project, and that is what we are talking about, a specific project.

Therefore, I feel that this body can endorse the policy after the PUC takes its actions. I simply want to wait until after they have made a judgment before I support a bill. Even though it does not specifically endorse the project, it will be interpreted as a legislative endorsement. I simply want to wait. That is my reason for signing against the bill.

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

Representative HOLT: Mr. Speaker, Men and Women of the House: I wish to explain my vote briefly. I do not vote against my leadership in the Utilities Committee lightly. For nearly a year, L.D. 729 has been a paper chase. In the weeks just past, lobbyists kept referring to this bill as the most recent redraft. By that time, I had lost count.

Utility committee members had to pick out the minute verbal differences and translate their meanings. Sometimes exact meanings seemed elusive to me, depending on who was trying to explain them to us.

This bill, if passed, would supposedly put into legal form, our resolution of last June. We gave our approval then to CMP's exploring the possibility of buying Quebec-Hydro power to serve Maine's future needs in electricity and to sell to buyers out of state. As Representative Baker said, this case is being considered now and it will need, if it is approved by the PUC, the Department of Environmental Protection's approval as well.

There are still unanswered questions, of course, about the health effect from magnetic and electric fields associated with transmission lines and these are of great concern to some of our constituents. Others have questioned encouraging Canada to flood even more areas of the State of Connecticut with the result and displacement of native people as well as the contamination of fish from that great amount of drowned material.

It is true that Canada is on the verge of flooding more vast tracts of land for electricity export to the United States. Mr. Bourassa, Premier of Quebec, has built his political reputation on the dams. On March 3, 1988, Canada's Globe and Mail quoted him as saying, "More dams would have been built to meet domestic demands anyway but since the source is renewable, it is profitable to start building now and export our surplus." But, an editorial in the March 12th issue of the French language paper, "Le Soleil" asks if the billions of dollars shouldn't rather be invested in other industrial sectors and in technological advancement and also asks consideration of new and more economical methods of producing electricity.

Simply, I am too disturbed that this bill gives a false impression that this legislature approves the Quebec-Hydro purchase. In spite of all the protestations of innocence to the contrary, you have only to look at the headlines in last evening's papers and today's papers to see what the Maine people are thinking.

Some very important changes have appeared in this bill. One requires that Canadian imports be given the same consideration that small Maine-based cogenerators, small power producers, and conservation efforts are given in ratemaking. Another requires that Canadian electricity capacity costs be accorded the same treatment as Maine-based and domestic capacity costs under rules similar to those under the fuel adjustment clause. That means that when costs go up for CMP, it can recover them from ratepayers without lengthy hearings.

Now, energy policy for the next third of a century requires very careful and expert consideration.

Central Maine Power Company protests that it needs this law to back up our June approval even before it gets PUC and DEP approval. It even threatens to pull out of negotiations with Quebec without it. I am not an opponent of Hydro power, I do oppose Central Maine Power Company's dictating to this legislature.

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: First, I want to be sure to go on Record on behalf of the committee and say that this bill, as now presented, does not indicate any support for Quebec-Hydro. It simply says to give this proposition a fair chance and for the Public Utilities Commission to decide whether or not it is best for the people of the State of Maine.

I am not going to go into capacity charges or any rate bases or anything like that. I am going to try, if I may, to simplify what we have done in this particular bill. First off, regressing a little bit, in the original bill that did pretty much indicate support for Quebec-Hydro and we just simply put that bill to one side and redrafted a bill that we thought would be palatable, not only to this legislature but to our committee and do what we thought was best for the people of the State of Maine.

In essence, let me give a parallel example. If you wanted to buy a car and the person sold both foreign cars and American cars, the first thing you would say to the dealer is, "Look, let's make everything equal, let's make sure that we are not trying any tricks, we are not giving any one car or the other the advantage of either (in this case) capacity charge or whatever we may want to say. Let's be sure we make all things equal." Then look over the proposition and if, in fact, you find that in looking everything over and taking into

consideration, dependable service, etcetera, etcetera, if the foreign product is the same as the American product, then take the American product. The comparison being Quebec-Hydro and cogeneration if they are equal after all the considerations are done, then give cogeneration the nod.

We have literally put in this bill a preference for an American product. What we are saying to the Public Utilities Commission is, we want you to look this over and do what is best for the people. Once you have done that, then if we support it, in which I am assuming we probably will because we have to put our trust into the commission, then we will adopt any policy to say that we want hydro power. I think the policy we are adopting now is, quite frankly, let's get what's best and what is less for the people of the State of Maine. That is what this bill does.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I think it is very important to point out that, in spite of the comments that Central Maine Power was dictating at this hearing, I think it is very important for each of you to understand that, in fact, they were a partner in the preparing of the bill that we have before us today. As a matter of fact, I was impressed with the cooperation between the several parties, the PUC, Central Maine Power to be sure, the other electrical utilities, the Public Advocates Office and the members of this committee itself.

I don't want anybody here to observe my vote as being an endorsement of Quebec-Hydro. I think that my vote goes along with what it says in the Statement of Fact. I think it is important for us to emphasize that, "This new draft reaffirms the existing policy of this state that Utilities and the Commission should engage in least cost planning with emphasis on conservation and purchasing." Finally, it does say explicitly that, "We should consider the energy from Canada." But, I think it is unfair for any member of the Utilities Committee to suggest by saying that Central Maine Power dictated to those of us who are in favor of this bill.

This is a good bill, it was worked out over a long period of time by all of the partners and I think it is a cooperative bill that deserves your support.

The SPEAKER: The Chair recognizes the Representative from West Gardiner, Representative Weymouth.

Representative WEYMOUTH: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the two previous speakers. Representative Vose has done an excellent job on giving you the rundown on this bill.

There is one other point I would like to bring to your attention and that is on cogeneration. Many of you people are probably aware that the avoidable cost until Quebec-Hydro was Seabrook. There are many people in this state under the cogeneration who have become very wealthy, they have 15 year contracts, there is nothing we can do about that. They would like to see Quebec-Hydro go down the drain very quickly and quietly because the avoidable cost would then go back to some very expensive means of generation.

Quebec-Hydro has forced these people, ladies and gentlemen, to sharpen their pencils. Some of these cogeneration contracts are coming in much, much, much lower. If we dump Quebec-Hydro and if we don't encourage CMP to continue the negotiations, this bill does not, in any way, commit us to Quebec-Hydro.

What this bill does is send a signal to CMP to continue negotiating. It sends a signal to the

cogenerators -- you people have got to clean up your act, you people have got to come in at a good price or you have got to beat Quebec-Hydro. Quebec-Hydro has already saved us ratepayers large sums of money.

I believe what this bill is doing is just continuing to say to these cogenerators, you have got to come in with some good projects, you have got to come in at a reasonable price. If they do, they beat Quebec-Hydro. This bill does not guarantee Quebec-Hydro, this bill does not force us to ever, ever get any energy from Quebec-Hydro.

I see this bill as saving us at the present time and in the future because Quebec-Hydro is there, it is a possibility, it is a reality. These cogenerators, if they are to cogenerate in the State of Maine, they have to either equal or they have to beat Quebec-Hydro. Quebec-Hydro is just being put into the mix at a future time if it can compete with these cogenerators.

Let me bring something else to your attention, ladies and gentlemen, the next six cogeneration units to come on line are all wood-burners. I would ask you, can we continue to clear-cut? Can we continue to depend so heavily on the wood-burners? I would ask you to support this bill because I think it has saved us a lot of money and I think it can continue to do so. Remember it is not a commitment to outside energy, it is just giving outside energy a chance to compete.

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

Representative NICHOLSON: Mr. Speaker, Members of the House: The previous speaker's on this bill, including the opponents, have told us the importance of continuing the negotiations with Quebec-Hydro. We had all kinds of advice, direction and involvement as a committee from our Public Advocate, Public Utilities Commission and Central Maine Power as we pursued this subject. We have to prepare now for the year 2000 as we move forward.

In the headlines today, it says "New England Power Use Stirs Industry's Concern." That is what it is all about, we have to keep the wheels turning in industry, we have to keep the lights on and the wheels turning in the commercial field and naturally the lights in the home. This is what we are striving for to do here in our committee for the people and, with your support, throughout the State of Maine.

Yes, we do have cogeneration. We are working stronger and harder forever for conservation. We are encouraging small power production. Those sources can help but, at the same time, we have to keep our minds open for larger sources. We need to combine as we go along and look into the picture as a whole whether it is Quebec or other sources from Canada or whether some day we build a large unit in the State of Maine or New England for our use. These are all in the works but right now we have to keep our mind open for what we know is there and consider our neighbors in Canada.

I urge you to vote for L.D. 729.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: First and foremost, many perhaps are unaware of the fact that we already are purchasing power from Canada, not Quebec-Hydro but we are purchasing Canadian power.

I would like to quote from the guts of this bill, Subchapter 6, "The Maine Energy Policy Act of 1988, Subsection 3191, Energy Policy. The legislature finds that it is in the best interests of the State to ensure that Maine and its electric utilities

pursue a least cost energy plan. The legislature further finds that a least cost energy plan takes into account many factors, including cost, risk, diversity of supply and all available alternatives." I reemphasize "all available alternatives, including purchase of power from Canadian sources. When the available alternatives or otherwise equivalent, the commission shall give preference first to conservation." You heard me speak on that the other day, "and demand management and then to power purchase from qualifying facilities. Nothing in this section is intended to modify the commission's authority under Section 3133, Subsection 9."

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

Representative BAKER: Mr. Speaker, Men and Women of the House: I would just like to point out something on the same page of the newspaper that Representative Nicholson pointed out right next to the article saying, "New England Power Use Stirs Industry's Concern" -- page 6 of your Portland Press Herald, under the heading "House Rejects Tax on Land Speculation" buried in that story is coverage of debate on this bill. This is what the newspaper said, "The bill endorsing the Quebec-Hydro deal was supported 28 to 3 in the other body." I will repeat, "The bill endorsing." You see the point I am trying to make about perception? Every speaker that has spoken so far has said that this bill does not represent an endorsement of the project; yet here it is in black and white. It is interpreted as an endorsement and the Public Utilities Commission hasn't made a ruling yet.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Bickford.

Representative BICKFORD: Mr. Speaker, Ladies and Gentlemen of the House: I stand today to oppose L.D. 2553, "An Act Establishing Maine Energy Policy." I agree with Representative Richard from Madison and I do agree with its intent that we as legislators endorse an energy policy. I do agree with its intent that we should pursue a least cost energy plan that takes into account many factors including cost, risk, diversity of supply and all available alternatives. I do agree with its intent that our first preference should be conservation and demand management.

But, ladies and gentlemen, I disagree and disagree very strongly, that this policy should include purchasing power from Canadian sources. If we import power from a Quebec-Hydro project, aren't we moving away from independence and towards dependence on foreign energy sources? Haven't we learned our lesson from depending on foreign governments, for example, the Middle East in the 1970's and the energy crisis?

I argued last year on the floor against the study saying that the economic issues, that weren't economic issues, were involved and Canada ceased to be an ally. Obviously, that argument got me nowhere because we only got eight votes. I will agree with you today that Canada is an ally, that is today, but what about tomorrow, what about next year, what about ten years from now? Panama was an ally a few years ago too. But, if we enter into a contract with Canada, aren't we looking at a contract for 29 years? Can you honestly tell me that there isn't going to be a change of government in the years to come? A change in government that could cease to be an ally?

Let's look at another issue, we all talk about Maine jobs for Maine people, especially when we debate some labor bills. Well, ladies and gentlemen, aren't we discouraging local small-scale power

development that would create jobs right here in Maine?

Another issue, how much power do we need? I have been told that we only need 400 megawatts but Canada insists that we purchase 900 megawatts so that we can get a deal of nine and a half cents per kilowatt. That is fine but what do we do with the other 500 megawatts? Maybe we can do like we do at Maine Yankee, have the Maine people put up with the risk but export all the excess power to southern New England.

Although this bill, noble in its attempt to purchase a least cost energy policy, it takes into account many factors including costs, risk, diversity of supply and all other alternatives but is it really a backdoor attempt to endorse Quebec-Hydro? Speaking of backdoors, would you like to open your backdoor and see those high transmission lines running through your property? I would suggest that if those transmission lines were coming through your area, more than likely you would be voting against this proposal. I say, "No thank you, Quebec-Hydro." I would urge you to vote against the pending motion also.

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

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will vote for the Majority Report on this bill today. We need this legislation in order to keep the options of Quebec-Hydro alive for Maine consumers. Despite our best efforts at conservation efforts which must continue, demand for energy is increasing.

I would like you to recall some of the cold nights we have had this winter. According to the National Weather Service in Portland, the temperature was six degrees below zero on January 8th, 11 degrees below zero on January 11th, 9 below on the 14th, 13 below on the 15th, 4 below on January 28th and 13 below on February 6th. That is just in Portland, I am sure if it was that cold in Portland, it was a lot colder in communities that many of you live in.

On those nights when it is very cold and when our expanded industrial and commercial base are operating at record high levels of production, tremendous strain is put on our electric power delivery system. One of those nights, January 14th, I remember very distinctly, we had a new all-time peak in power demand that night in Portland, in Maine and all across New England. I would like to read to you very briefly from the newsletter of the Northeast Public Power Association talking about what happened that night. They say, "For the second time this year, New England Power Pool recorded an all time high for electric demand. On the evening of Thursday, January 14, 1988, peak demands climbed to 19,311 megawatts (that's across New England) as frigid weather sent temperatures plummeting throughout the region. The power pool utilized the maximum output of every available generator in the region, purchased emergency power from neighboring power systems and even issued public appeal for voluntary conservation measures." The article further states that, "The previous record of 18,471 megawatts was set on January 5th of 1988 when the power pool was one step away from a system-wide voltage reduction." There is only nine days difference between those two dates.

The energy choices we make this year will have enormous long-term consequences for Maine. I am very anxious that we make the choice that is in the best economic interests of Maine consumers, that new capacity be the least expensive, most reliable and

most dispatchable source of energy that Maine could have.

I cannot tell you today that Quebec-Hydro is the best option. The Public Utilities Commission is examining that question and the PUC has not yet determined that Quebec-Hydro either is or is not in Maine's best interest. But, until we know the answer, it would be unwise and imprudent for this body to eliminate Quebec-Hydro from consideration. What if Quebec-Hydro is the least cost option and, what if Quebec-Hydro is deemed to be the most reliable? By passing this bill, we can be sure that this option will be available for Maine consumers along with every other possible energy option.

Since I have been sitting through this debate, I have received several notes from colleagues who have asked me, what is the position of Bangor-Hydro on this matter? The other Maine utilities have watched this with great interest and they have supported the legislation that is before us.

On motion of Representative Gwadosky of Fairfield, tabled pending the motion of Representative Vose of Eastport to accept the Majority "Ought to Pass" Report and later today assigned.

#### Non-Concurrent Matter

Bill "An Act to Change the Sales Tax Status of Snow-Making Equipment used by Commercial Ski Areas" (H.P. 1691) (L.D. 2320) on which the Minority "Ought Not to Pass" Report of the Committee on Taxation was read and accepted in the House on March 22, 1988.

Came from the Senate with the Majority "Ought to Pass" in New Draft under New Title Bill "An Act to Change the Sales Tax Status of Equipment, Fuel and Electricity Used in Snow-making by Commercial Ski Areas" (H.P. 1867) (L.D. 2554) Report of the Committee on Taxation read and accepted and the New Draft passed to be engrossed in non-concurrence.

Representative Cashman of Old Town moved that the House adhere.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, I move that the House recede and concur.

This bill was before us yesterday and we rejected the Majority "Ought to Pass" Report. I would hope today this body would reverse its decision and go along with the other body and go with the Majority Report, "Ought to Pass."

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 Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I hope that members will vote against the pending motion to recede and concur and stick to the vote that we took yesterday on this bill. I think we had a very lengthy debate yesterday and doesn't need to be repeated today but I think the House was convinced that this was a bill that was not justified, that it was a bad tax policy.

I actually had people come up to me after the debate yesterday and tell me that they thought I was

right, but they had voted the other way. I just hope that people understand that this is a very serious tax policy statement. I hope the House sticks to its vote of yesterday and rejects the pending motion so that the House can then adhere.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong the debate any but the good gentleman from Old Town talked about tax consistency and tax equity in his remarks. This is just a consistent tax policy, it is following what we have encouraged in the past. I would hope that you would vote with the good gentleman from Bethel this morning on the motion to recede and concur.

The SPEAKER: The pending question before the House is the motion of Representative Mills of Bethel that the House recede and concur.

The Chair recognizes the Representative from Bangor, Representative Stevens.

Representative STEVENS: Mr. Speaker, I request to be excused under House Rule 19, and Joint Rule 10.

The SPEAKER: The Chair will grant the request to Representative Stevens of Bangor to be excused.

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

ROLL CALL NO. 216

YEA - Allen, Begley, Bickford, Bott, Boutilier, Bragg, Callahan, Clark, H.; Cote, Dexter, Diamond, Duffy, Dutremble, L.; Erwin, P.; Farnum, Foss, Gould, R. A.; Greenlaw, Hanley, Harper, Hepburn, Hichborn, Hogleund, Jackson, Jalbert, Joseph, Ketover, Lacroix, Lapointe, Lawrence, Lebowitz, MacBride, Marsano, Mayo, McGowan, McSweeney, Melendy, Mills, Moholland, Murphy, T.; Nadeau, G. R.; Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Parent, Perry, Pouliot, Reed, Salisbury, Scarpino, Sheltra, Sherburne, Simpson, Small, Smith, Stevens, A.; Strout, B.; Tammaro, Telow, Thistle, Tracy, Vose, Walker, Warren, Webster, M.; Weymouth, Whitcomb, Zirkilton.

NAY - Aliberti, Anderson, Anthony, Baker, Bost, Brown, Carroll, Carter, Cashman, Chonko, Clark, M.; Coles, Conley, Crowley, Curran, Daggett, Davis, Dellert, Dore, Farren, Foster, Garland, Glidden, Gwadosky, Hale, Handy, Hickey, Higgins, Holloway, Holt, Hussey, Jacques, Kilkelly, Kimball, Lisnik, Look, Lord, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; McHenry, McPherson, Michaud, Mitchell, Murphy, E.; Nicholson, Oliver, Paradis, P.; Paul, Priest, Racine, Rand, Richard, Ridley, Rolde, Rotondi, Rydell, Seavey, Soucy, Strout, D.; Swazey, Tardy, Taylor, Tupper, Wentworth, Willey.

ABSENT - Armstrong, Bailey, Gurney, Hillock, Nadeau, G. G.; Pines, Reeves, Rice, Ruhl, Stanley, The Speaker.

EXCUSED - Stevens, P.

Yes, 70; No, 68; Absent, 11; Vacant, 1; Paired, 0; Excused, 1.

70 having voted in the affirmative, 68 in the negative, with 11 being absent, 1 vacant and 1 excused, the motion to recede and concur did prevail.

Non-Concurrent Matter

RESOLVE, to Study a Program to Promote the Purchase of State-Grown Produce by Needy Persons (S.P. 933) (L.D. 2453) on which the Majority "Ought Not to Pass" Report of the Committee on Agriculture was read and accepted in the House on March 22, 1988.

Came from the Senate with that Body having adhered to its previous action whereby the Minority

"Ought to Pass" Report of the Committee on Agriculture was read and accepted and the Bill passed to be engrossed in non-concurrence.

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

Representative NUTTING: Mr. Speaker, I move that the House recede and concur.

Ladies and Gentlemen of the House: This bill, L.D. 2453, I will admit is not going to change the world but I feel in some small way it is going to help.

This bill has had a short but lively history. It was presented to the Agriculture Committee by the President of the other body. It appeared to be a unanimous "Ought to Pass" Report the day of the hearing. Then the following day, it was 10 to 3 "Ought Not to Pass" and now I believe, if the vote was taken, it would be 8 to 5 "Ought Not to Pass."

This bill, briefly, sets up a pilot project, modeled after successful programs in both Massachusetts and Vermont to help Maine's vegetable farmers -- yes, Maine's vegetable farmers -- to start farmers markets in urban areas where low income people can redeem coupons for fresh Maine grown produce as is done in Massachusetts and Vermont. Of course, everyone would be able to shop at these farmers markets.

The other thing everybody in this body should realize is that for years Maine's vegetable farmers have tried (pretty much unsuccessfully) to get their produce into Maine's two supermarket chains. One chain especially has chosen, because of convenience, to go to Boston and buy the vegetables for their stores out of state. Their stores, of course, are mostly located in our urban centers. In fact, when the chain stores testified on a different bill before our committee last week, they testified that they had no idea where most of the vegetables came from that were in their stores. Maine's vegetable farmers are a hard working lot. They deserve our support to see if this pilot program, modeled after one in Massachusetts and in Vermont, can also work in Maine.

I urge your support for the recede and concur motion before you.

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

Representative TARDY: Mr. Speaker, Men and Women of the House: I would urge you to reject the motion before us so that we could adhere.

This bill is, in our opinion, fatally flawed. The title of the bill is a Resolve to study, there is nothing in the body of the bill, a one page body of the bill that refers in any way, shape or manner to a study. It directs the implementation of a program which failed to give us the who, what, where, when and how. At the public hearing, there was absolutely no supporting testimony from anybody in the vegetable growing industry or marketing in the State of Maine.

I would ask for a division, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: Both for the sake of the needy people mentioned in this piece of legislation and on behalf of the vegetable farmers, I would urge you to not adhere but to recede and concur, with the view perhaps of eventually having a committee of conference meet to work out the snags in this bill referred to by Representative Tardy.

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

Representative BRAGG: Mr. Speaker, Ladies and Gentlemen of the House: I certainly agree with the comments from the Representative from Palmyra,

Representative Tardy, regarding this bill. As a farmer, I believe it is something that is going to help fellow farmers or at least it appears that way on the surface. I believe if you study the bill and the concept of it, you would find it would eventually involve, not only the Department of Agriculture but there also has to be some involvement from the Department of Human Services who deals with the issuing of food stamps.

There is no fiscal note on this bill. Before anything could be done with it, I am quite sure there would be a fiscal impact on the departments involved.

The concept is basically a state-sponsored food stamp program. I have trouble with that concept. I would certainly urge you to defeat this bill.

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

A vote of the House was taken.

30 having voted in the affirmative and 82 in the negative, the motion to recede and concur did not prevail.

Subsequently, the House voted to adhere.

COMMUNICATIONS

The following Communication:

SPECIAL COMMISSION TO STUDY SCHOOL ENTRANCE AGE AND PRE-SCHOOL SERVICES

March 17, 1988  
President Pray  
Speaker Martin  
State House  
Augusta, ME 04333

Dear President Pray and Speaker Martin:

The Special Commission to Study School Entrance Age and Pre-school Services is pleased to submit its interim report to the Legislature pursuant to P.L. 1987 c. 64 and P.L. 1987, c. 580.

After careful consideration, the Commission recommends that the school entrance age remain as it currently is and that issues related to providing a child-based, developmentally appropriate early childhood curriculum be addressed.

Sincerely,  
s/Rep. James R. Handy, Chair  
s/Sen. Stephen C. Estes,  
Co-chair

Was read and with accompanying papers ordered placed on file.

PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE

Reported Pursuant to Resolves

Representative HANDY for the Special Commission to Study School-Entrance Age and Preschool Services pursuant to Resolve 1987, chapter 64, ask leave to submit its findings and report that the accompanying RESOLVE, to Amend the Duties, Title and Reporting Date of the Special Commission to Study School-Entrance Age and Preschool Services (Emergency) (H.P. 1874) (L.D. 2566) be referred to the Joint Standing Committee on Education for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Education, ordered printed and sent up for concurrence.

ORDERS

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative TARDY from the Committee on Agriculture on Bill "An Act to Provide for a State Trademark for Maine Products" (H.P. 1608) (L.D. 2199) reporting "Ought to Pass" in New Draft (H.P. 1880) (L.D. 2572)

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

Ought to Pass Pursuant to Joint Order (H.P. 1489)

Representative CARROLL from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1988 (Emergency) (H.P. 1878) (L.D. 2569) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1489)

Report was read and accepted, the Resolve read once.

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

Ought to Pass Pursuant to Joint Order (H.P. 1489)

Representative HUSSEY from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1988 (Emergency) (H.P. 1879) (L.D. 2570) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1489)

Report was read and accepted, the Resolve read once.

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

Divided Report

Later Today Assigned

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-510) on Bill "An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years" (H.P. 1594) (L.D. 2180)

Signed:

Senators: TUTTLE of York  
BALDACCI of Penobscot  
GOULD of Waldo

Representatives:

HUSSEY of Milo  
LOOK of Jonesboro  
WENTWORTH of Wells  
CARROLL of Gray  
BICKFORD of Jay  
ANTHONY of South Portland  
STROUT of Windham  
ROTONDI of Athens  
BOUTILIER of Lewiston

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

Signed:

Representative: LACROIX of Oakland  
Reports were read.

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

On motion of Representative Diamond of Bangor, tabled pending the motion of Representative Carroll of Gray to accept the Majority "Ought to Pass" as amended Report and later today assigned.

Divided Report

Later Today Assigned



Majority Report of the Committee on Fisheries and Wildlife on Bill "An Act to Amend the Endangered Species Act to Provide for Injunctive Relief and Other Enforcement Remedies" (H.P. 1586) (L.D. 2164) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Endangered Species Act" (H.P. 1875) (L.D. 2567)

Signed:  
 Senators: ERWIN of Oxford  
 USHER of Cumberland  
 BRAUN of Knox  
 Representatives: ROTONDI of Athens  
 WALKER of Norway  
 DUFFY of Bangor  
 CLARK of Millinocket  
 JACQUES of Waterville

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Endangered Species Act" (H.P. 1876) (L.D. 2568) on same Bill.

Signed:  
 Representatives: BROWN of Gorham  
 WEYMOUTH of West Gardiner  
 SMITH of Island Falls  
 FARREN of Cherryfield  
 GREENLAW of Standish

Reports were read.  
 Representative Jacques of Waterville moved that the House accept the Majority "Ought to Pass" Report. On further motion of the same Representative, tabled pending his motion and later today assigned.

Divided Report  
Later Today Assigned

Majority Report of the Committee on Agriculture reporting "Ought to Pass" on Bill "An Act Relating to Horse Racing and Racing Facilities" (Emergency) (H.P. 1781) (L.D. 2434)

Signed:  
 Senators: MATTHEWS of Kennebec  
 TWITCHELL of Oxford  
 BLACK of Cumberland  
 Representatives: TARDY of Palmyra  
 HUSSEY of Milo  
 PARENT of Benton  
 BRAGG of Sidney  
 NUTTING of Leeds  
 PINES of Limestone  
 ALIBERTI of Lewiston  
 MAHANY of Easton  
 SHERBURNE of Dexter

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

Signed:  
 Representative: GLIDDEN of Houlton

Reports were read.  
 Representative Tardy of Palmyra moved that the House accept the Majority "Ought to Pass" Report.

On motion of Representative Diamond of Bangor, tabled pending the motion of Representative Tardy of Palmyra that the House accept the Majority "Ought to Pass" Report and later today assigned.

Divided Report  
Later Today Assigned

Majority Report of the Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Make the Language of the Constitution Gender Neutral (H.P. 1432) (L.D. 1949) reporting "Ought to Pass" in New Draft (H.P. 1877) (L.D. 2571)

Signed:

Senators: BALDACCI of Penobscot  
 TUTTLE of York  
 Representatives: ROTONDI of Athens  
 LACROIX of Oakland  
 ANTHONY of South Portland  
 CARROLL of Gray  
 BOUTILIER of Lewiston

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

Signed:  
 Senator: GOULD of Waldo  
 Representatives: HUSSEY of Milo  
 STROUT of Windham  
 LOOK of Jonesboro  
 WENTWORTH of Wells  
 BICKFORD of Jay

Reports were read.  
 Representative Carroll of Gray moved that the House accept the Majority "Ought to Pass" in New Draft Report.

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

CONSENT CALENDAR

First Day

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

(S.P. 864) (L.D. 2252) Bill "An Act to Correct Inconsistencies in the Publication of Legal Notices" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-350)

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

CONSENT CALENDAR

Second Day

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

(H.P. 1763) (L.D. 2416) Bill "An Act to Improve the Services Provided to the Members and Retirees of the Maine State Retirement System" (Emergency)

(H.P. 1845) (L.D. 2527) Bill "An Act to Fund and Implement Collective Bargaining Agreements with Certain Maine Vocational-Technical Institute System Employees Represented by the Maine State Employees Association" (Emergency)

(S.P. 809) (L.D. 2118) Bill "An Act to Clarify the Experience Requirement for Licensed Dietitians" (Emergency) (C. "A" S-346)

(H.P. 1755) (L.D. 2404) RESOLVE, to Authorize a Transfer of Surplus Funds within the Franklin County Budget (Emergency)

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

(H.P. 1846) (L.D. 2528) Bill "An Act Relating to Exceptions to Prevent Escapes and Other Offenses under the Interception of Wire and Oral Communications Law"

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

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

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

(H.P. 1604) (L.D. 2195) Bill "An Act to Amend the Law Allowing the Town of York to Repair Certain Private Roads" (C. "A" H-512)

(H.P. 1674) (L.D. 2293) Bill "An Act to Determine the Extent and Impact of Unemployed Persons No Longer Eligible for Unemployment Insurance Upon the State of Maine" (Emergency) (C. "A" H-511)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Reform the Pharmacy Laws" (Emergency) (S.P. 963) (L.D. 2555) (S. "A" S-349)

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

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

On motion of Representative Jacques of Waterville, Recessed until five o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

The following Communication:  
Maine State Senate  
Augusta, Maine 04333

March 23, 1988  
Honorable Edwin H. Pert  
Clerk of the House  
State House Station 2  
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it accepted the Majority Ought Not to Pass Report on the Bill "An Act Concerning the Display of Dealer Markup Stickers by New Car Dealers" (H.P. 1708) (L.D. 2345).

Sincerely,  
s/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

Unanimous Leave to Withdraw

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Provide Use Immunity for Witnesses" (S.P. 903) (L.D. 2349)

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act Relating to Requirements for Tenancy in Mobile Home Parks" (S.P. 777) (L.D. 2034)

Report of the Committee on State and Local Government reporting "Leave to Withdraw" on Bill "An Act Converting the Unorganized Township of Big Squaw into the Town of Big Squaw" (S.P. 741) (L.D. 2000)

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:

Appropriations and Financial Affairs

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$12,000,000 for Sewerage Facilities Construction" (H.P. 1883) (L.D. 2575) (Presented by Representative DEXTER of Kingfield) (Cosponsors: Representative MCGOWAN of Canaan, Senators EMERSON of Penobscot and USHER of Cumberland)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$31,800,000 to Finance Construction and Capital Improvements on the Campuses of the University of Maine System" (H.P. 1884) (L.D. 2576) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Representative FOSTER of Ellsworth, Senators COLLINS of Aroostook and CLARK of Cumberland)

Ordered Printed.  
Sent up for Concurrence.

TABLED AND ASSIGNED

Bill "An Act to Freeze Further Increases in the Minimum Lobster Size" (H.P. 1881) (L.D. 2573) (Presented by Representative SCARPINO of St. George) (Cosponsors: Representatives VOSE of Eastport and LOOK of Jonesboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(The Committee on Reference of Bills had suggested the Committee on Marine Resources)

On motion of Representative Mitchell of Freeport, tabled pending reference and specially assigned for Thursday, March 24, 1988.

Taxation

Bill "An Act to Expand the Property Tax Circuit Breaker Program" (H.P. 1882) (L.D. 2574) (Presented by Representative SEAVEY of Kennebunkport) (Cosponsor: Senator TWITCHELL of Oxford)

Ordered Printed.  
Sent up for Concurrence.

ORDERS

On motion of Representative DAVIS of Monmouth, the following Joint Resolution: (H.P. 1885) (Cosponsor: Senator DOW of Kennebec)

JOINT RESOLUTION IN MEMORY OF  
DEPUTY REVISOR OF STATUTES,  
BRIAN KEITH BLAISDELL OF MONMOUTH

WHEREAS, the Legislature has learned with deep regret of the untimely passing of Brian Keith Blaisdell of Monmouth, Deputy Revisor of Statutes; and

WHEREAS, Brian was a good and faithful public servant, unrelenting in his efforts to serve the Legislature and an integral part of the legislative team; and

WHEREAS, we recall and appreciate the dedication he brought to his profession, the precision of his mind, his generosity, quick wit and profound knowledge of the law; and

WHEREAS, his years were short, he brought great courage and vitality to all his endeavors, he touched

all who knew and worked with him in a very special way; now, therefore, be it

RESOLVED: That, We, the Members of the Senate and House of Representatives join all the legislative staff to pause in a moment of understanding and prayer for our dear friend and trusted legislative official and to extend this token of sympathy and condolence to all who share this great loss and respectfully request that when the Legislature adjourns this date it do so in honor and lasting tribute to Brian Keith Blaisdell of Monmouth; and be it further

RESOLVED: That a duly attested copy of this joint resolution be prepared by the Secretary of State and transmitted forthwith to his dear wife Judith and his children, Karen, Jason, James and Merrick, with our deepest respect to his memory.

Was read.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: Those of you who were able to attend the services in Monmouth today understand the loss that we had in Monmouth.

Brian was one of those native sons that we were so happy to have come back to our community after completing his education. He loved his town, he loved the people in it. Anytime there was something to be done, he was there to help us. He helped us with the historical formation, he worked with the planning board, he was on the school board and, in the last days of his life, he was helping a neighbor settle an estate of a recent decease.

We all wish Judy and the family well and I know that you in your hearts are with them in this time of grief. I hope that none of us have to go through this again in any of our communities in the near future.

Subsequently, was adopted and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative MANNING from the Committee on Human Resources on Bill "An Act to Limit the Availability of Diet Drugs to Minors" (H.P. 1628) (L.D. 2223) reporting "Leave to Withdraw"

Representative TAMMARO from the Committee on Labor on Bill "An Act to Ensure Proper Payment of Fringe Benefit Contributions for Construction Workers" (H.P. 1631) (L.D. 2226) 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 item appeared on the Consent Calendar for the First Day:

(H.P. 1771) (L.D. 2424) Bill "An Act to Add a Hemophiliac to the Committee to Advise the Department of Human Services on AIDS" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-514)

There being no objections, the above item was ordered to appear on the Consent Calendar of Thursday, March 24, 1988, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 864) (L.D. 2252) Bill "An Act to Correct Inconsistencies in the Publication of Legal Notices" (C. "A" S-350)

On objection of Representative Whitcomb of Waldo, was removed from the Consent Calendar, Second Day.

Subsequently, the Report was read and accepted, the Bill read once.

Committee Amendment "A" (S-350) was read and adopted and the Bill assigned for second reading Thursday, March 24, 1988.

SECOND READER

Tabled and Assigned

Bill "An Act Relating to Exceptions to Prevent Escapes and Other Offenses under the Interception of Wire and Oral Communications Law" (H.P. 1846) (L.D. 2528)

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

On motion of Representative Paradis of Augusta, tabled pending passage to be engrossed and specially assigned for Thursday, March 24, 1988.

PASSED TO BE ENGROSSED

Bill "An Act to Provide for a State Trademark for Maine Products" (H.P. 1880) (L.D. 2572)

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 Chair laid before the House the following matter: "An Act Establishing Maine Energy Policy" (S.P. 962) (L.D. 2553) which was tabled earlier in the day and later today assigned pending the motion of Representative Vose of Eastport that the House accept the Majority "Ought to Pass" Report, a roll call having been requested.

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, Men and Women of the House: I would ask that you just consider the points that I made this morning. One final comment -- can the PUC accomplish the goals in this bill without legislative approval? I believe it can. I urge you to vote no on this bill.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Men and Women of the House: I will be voting against this legislation, not because I am against hydro-electric power but because I feel that we need additional information. It is important that we wait until the DEP and the PUC complete their final reports.

Last session, I voted in favor of the resolution because I felt that it was important to leave the

options open and allow discussion to continue between Maine and Quebec. I believe this legislation is premature. All of the facts are not in yet.

I urge you to vote against the pending motion.

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

Representative VOSE: Mr. Speaker, Men and Women of the House: Ordinarily, I would not have gotten up the second time on this bill because we had debate on this this morning but since we are debating again this afternoon, I am just going to reiterate very, very quickly that we are not endorsing Quebec-Hydro by passage of this bill.

We are making all things equal and we are asking the Public Utilities Committee to judge all of the projects that are up for judgment now on an equal merit and if, in fact, Quebec-Hydro is the best way to go, we are saying, by all means, go that route. However, if cogeneration and Quebec-Hydro are equal, then choose cogeneration. That is the first time we have adopted an energy policy in which we are actually giving the people of Maine and cogeneration preference.

I hope that you will support this bill.

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

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

Representative Bickford just suggested that perhaps the PUC can already do this -- can someone answer if the PUC can already do what this bill allows it to do?

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

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

Representative BAKER: Mr. Speaker, Men and Women of the House: In response to the Representative's question -- during the hearing, we had asked the PUC if they could do this by regulation and they said, yes they could propose the treatment outlined in the bill by regulation.

The SPEAKER: The pending question before the House is the motion of the Representative from Eastport, Representative Vose, that the House accept the Majority "Ought to Pass" Report.

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

Representative ALLEN: Mr. Speaker, I request permission to be excused from voting.

The SPEAKER: The Chair will grant the request pursuant to Joint Rule 10 and House Rule 19.

The SPEAKER: The pending question before the House is the motion of the Representative from Eastport, Representative Vose, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 217

YEA - Aliberti, Anderson, Anthony, Bailey, Begley, Bost, Bott, Bragg, Brown, Callahan, Carroll, Carter, Cashman, Clark, H.; Coles, Conley, Cote, Curran, Daggett, Davis, Diamond, Duffy, Farren, Foss, Foster, Garland, Glidden, Gould, R. A.; Greenlaw, Gwadosky, Harper, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holloway, Hussey, Jacques, Joseph, Ketover, Kilkelly, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Martin, H.; Matthews, K.; McGowan, McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, T.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pouliot, Priest, Racine, Reed, Richard, Ridley, Rotondi, Ruhlin, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Small, Smith, Soucy,

Stevens, A.; Stevens, P.; Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Weymouth, Whitcomb, Willey, Zirkilton.

NAY - Armstrong, Baker, Bickford, Chonko, Dexter, Dutremble, L.; Erwin, P.; Hale, Handy, Hanley, Holt, Jalbert, Lacroix, Mayo, Melendy, Mills, Mitchell, Murphy, E.; Oliver, Parent, Perry, Rand, Reeves, Rydell, Wentworth.

ABSENT - Boutilier, Clark, M.; Crowley, Dellert, Dore, Farnum, Gurney, Hillock, Jackson, Kimball, Lapointe, Manning, Marsano, Nadeau, G. G.; Pines, Rice, Rolde, Simpson, Stanley, Taylor, The Speaker.

EXCUSED - Allen.

Yes, 103; No, 25; Absent, 21; Vacant, 1; Paired, 0; Excused, 1.

103 having voted in the affirmative and 25 in the negative with 21 absent, 1 vacant and 1 excused, the Majority "Ought to Pass" Report was 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.

The Chair laid before the House the following matter: Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-510) on Bill "An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years" (H.P. 1594) (L.D. 2180) which was tabled earlier in the day and later today assigned pending the motion of the Representative from Gray, Representative Carroll, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Lacroix.

Representative LACROIX: Mr. Speaker, Men and Women of the House: I have been trying to decide how I was going to approach this because I am in such adamant opposition to this bill. In mulling it over, I figured to use Paul Harvey's term, "I'm going to tell you the rest of the story."

In doing so, I think I will use my own career in state government to point out exactly what this bill will do if it is allowed to pass. I was brought up during the Depression. I was the third oldest of nine children, born to very poor, hardworking, honest parents.

When I graduated from high school, I didn't have the luxury of being able to go to college, not because I didn't have the ability, but because I didn't have the financing. I graduated Valedictorian of my class. I had a scholarship but, in order to use that scholarship, I also had to be able to eat, have clothes, and occasionally a little mad money so I could have some fun.

I had a few jobs when I first got out of high school and then I came to work for the state in the clerical field. I progressed up through the ranks, as you can in state service, until I got to the very top of where I could go, the top clerical in my unit in the Department of Labor and there I sat. There was nothing I could do about it and I liked what I did, liked working for the state.

Then with the passage of the Civil Rights Act in the mid-sixties, all of a sudden, a door opened, just a crack but it opened and it allowed me and individuals like me, to go further in working for the state. What it did was take a statement that was on all applications, bulletins for job openings at that time, that said applicant must possess a bachelor's degree. What it did was add a little statement that

said or possess the necessary knowledge, skills, experience and training required for that position. That, ladies and gentlemen, didn't mean that it guaranteed me a job in the professional and technical ranks but what it did do was allow me to compete for those jobs.

I took the same examination as people who have degrees, there were no special privileges, other than I could sit for that exam without that requisite bachelor's degree. I took the exam, I did fairly well on them because it wasn't long before I was certified for the position. In those days, three people were certified for the position, not six as is now the case. This is long before collective bargaining came into the system.

I progressed along the ranks until I was one of the top supervisor's within the Department of Labor. I am proud of my career. I think that I did a good job.

This bill, if passed, closes that door to a number of people within state government. What it does is say that, in order to become an auditor in an Auditor III or the Deputy Auditor or the Director of Audit or the Director of Administration within the Department of Audit, that you have to possess a certified public accountant's certificate, a certified internal auditor's certificate or a professional accounting certificate. That in itself is not bad, I am not against degrees, I think they are great, I have a lot of envy for those of you who have one. but I am against putting a restriction on a job requirement that says you can't do the job unless you meet these kinds of requirements.

The State Auditor told us that there has been difficulty in the Department of Audit because of the way that audits have been done. He also indicated supervision with the Department of Audit is poor. I will tell you, ladies and gentlemen, even if this bill passes, the supervision of the Department of Audit will not get any better. There are very definite skills that are necessary for supervision and being a CPA doesn't make you a good supervisor.

When we conducted the hearings that revamped the whole Department of Personnel in the 112th, a complaint that we heard the most often, and that was from Commissioners, top level management, from the rank and file and yes, from the supervisor's themselves, was that they did not have the necessary skills nor was the state interested in giving them those skills. When we passed the bill, we put in provisions that said, "Supervisors within state government should be trained. There should be orientation and they should know how to deal with their subordinates." Apparently, a lot of this isn't working very well yet but we are still in the infant stages of that very significant legislation that we passed in the 112th.

I am asking you today not to pass regressive legislation. Let's not get so hung up on titles and degrees that we forget that there are people working within state government who have been there for 18 or 20 years, have done a very credible job with the state and, all of a sudden, we are going to change their work rules and the conditions under which they were hired. We are going to tell them that, because you don't have this degree, you are not going to be able to keep your job, say nothing of being promoted if you are within those lower ranks unless you attain those certificates.

I ask you tonight to join me in defeating this motion and send the message to the state employee's that we do not think in this legislature that they are all incompetent. We have the mechanism within the system to address the problems that the auditor

said he has. He has money that this legislature has given him for training, he can use that training to upgrade the technical skills of the auditor's if that is what they are lacking or he could use this money to increase their supervisory skills. Let's not add very restrictive job requirements that are totally and completely unnecessary.

I will make you a prediction -- if this bill passes, in three or four years, because it will take three years before this goes into effect, we are going to have a much bigger problem than Audit has now. We are going to set ourselves up for a very difficult recruitment of CPA's, certified internal auditor's, professional accountants to do this work. We are not only going to set this up but it is going to be a lot more costly.

We heard from the Director of Human Resources that the costs would probably double for doing the same job these auditor's are doing now. Not only will we be having an increased difficulty in recruitment but retention of these people will go down to zero. What we will do is prove a training ground for accountant's who then can go into the private sector where they can command a whole lot more money than what the state is able or willing to pay.

I urge you to vote with me on this bill.

Mr. Speaker, I request a roll call.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I would like to respond to some of the comments made by my good friend from Oakland, Representative Lacroix. I am the only sponsor of this legislation that is before you. I put this bill in at the request of the State Auditor. He asked me to do so because he knows that I work for a CPA firm. I am not a CPA, CIA or a PA, I am just a plain old accountant. I felt very strongly about this issue and so I put it in.

I do not feel that state employees are incompetent, I do not feel that we need to take a meat axe approach to this problem, I have taken a very calculated approach to this problem and I have brought it to the legislature.

Though this bill may not improve supervisory skills, it certainly will improve their technical skills. We have a problem in the Department of Audit with the people who are responsible for supervising field auditor's and do not have the appropriate technical skills to do their work. Therefore, the work that is being done in the field is not up to the standard it should be. The full faith and credit of the State of Maine is behind those audits when they go in the field. They put the seal of the State of Maine on that audit and that audit should be done in a professional and complete manner. That is why I sponsored this bill.

I also understand, because we had testimony to that effect, that many members of the staff at the Department of Audit who would come under this bill, people who would possibly advance the position of Auditor III have already signed up for courses to go through the process of getting one of those certificates. They have already decided that they want to advance themselves professionally.

As to the question that Representative Lacroix raised about recruitment -- yes, that is a problem but I would ask you, is it appropriate to recruit people and put them in positions where they are not doing the job appropriately just to fill the position? Or is it more appropriate to raise the standards and then go out find people to fill those jobs? When you raise the standards, you attract a

higher quality of individuals for those positions and I think the work will improve.

I am very concerned, as I said, about the Department of Audit and I would urge this House to support the Majority Report.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: I agree entirely with Representative Mayo. The people who are in these positions, some have been there for 14 years. They are being given three full years with seven opportunities in that time to pass an equivalency of a CPA, seven times to pass a test on a job that they have worked on for 14 years. I am sure there will be no problem.

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 Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: Before we vote this evening, I would like to just share with you a couple of important items. I didn't plan on speaking on this bill but I was a member of the State Government Committee for six years, prior to that I worked in the Department of Personnel for a year as an analyst putting together job specifications. This is something like that.

One of the things that bothers me is that this legislature is being asked to set into statute certain qualifications for jobs. We have an entire department now called the Bureau of Human Resources and a Department of Administration that sets job standards. I understand that the Department of Audit went to them last year, they conducted an audit and it did not come out to the report of what the auditor wanted, therefore he is over here today. I say that with all due respect to him as a personal friend. But, he was unable to convince the job auditor's, the job analyst's that went through the department, they were not willing to conclude that this was necessary and now we are being asked to do that.

It bothers me, as the Representative from Oakland has said, that we do have a career ladder in this state and when you take a job and you meet the qualifications, take the examination, meet the examiner's and you are hired and then they change the rules afterwards. You have a house, a family, you have relocated perhaps, you have children in college or high school or whatever and, all of a sudden, you are being asked to do something completely different. I would not like it if I was in that position and the legislature were changing the rules after they lost their first round in the Bureau of Human Resources. I don't think it is fair. Nothing about this bill is fair. It might help the state out a little bit.

I don't happen to subscribe that taking a CPA exam and passing it is going to be easy. I believe about one out of five who take the CPA exam pass it. It is harder than the Bar exam. I asked my brother-in-law who is a Certified Public Accountant and he said many of them take it four or five times before they pass. Their type of work will not necessarily be improved by being CPA's, by being certified auditor's perhaps, but there are other ways besides putting it into statute.

One of the things this bill does not have is a grandfather clause. Every time we have passed a new requirement, for instance, mandated academy training for law enforcement personnel which we did originally several years ago, we grandfathered the police officers who were full-time police officers. We did not require that they take 12 weeks out of their time and go to the academy in fairness to the one's that had been police officers for 10 or 15 years.

Now we have people who have been doing the job 10 or 15 years and we are asking them, would you please leave your job and your livelihood and go to school for a couple of years? If you take it, see if you pass it -- just don't take the schooling, pass it, and we will help you out. I know it is a 12 to 1 report but I think the Representative from Oakland has made a really good point. I am not voting for the bill, it is not fair to those people at all.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: This is really a very simple bill. What it addresses is the quality of state government. It is an attempt to upgrade the quality of state government in an area that ought to be near and dear to the hearts of all of us that have a direct responsibility for the expenditure of state funds and that is to raise the quality of the auditing of the expenditures of those funds. There is ample opportunity under this bill for people in their job situations to acquire the necessary skills to be advanced.

I would point out as well that we heard in the State and Local Government Committee a sense of lagging morale for lack of quality supervision. It not only helps the quality of state government therefore, but in my view, it will in the long run, raise the morale of that department because it will ensure that the supervision given to people who are hired on the entry level is highly competent and helps them to develop their professional skills.

I urge support for this bill.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: Like my good friend from Thomaston, Representative Mayo, I am not a CPA, I am not a PA nor a CIA, I am just a plain old accountant.

I do have to agree with my good friend, Representative Lacroix from Oakland, that there are many, many times when we have very, very capable employees in state government without benefit of a degree who can do the job as well as a person with a degree. Another thing, if you have ever had to deal with CPA's, and I have many friends who are CPA's, you know that their hourly rate is very, very high. You know that when you hire a CPA in state government, you are going to have to pay them comparable wages to the outside world. I would urge you to join Representative Lacroix on this one.

The SPEAKER: The pending question before the House is the motion of Representative Carroll of Gray that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 218

YEA - Allen, Anderson, Anthony, Armstrong, Bailey, Baker, Bickford, Bost, Bragg, Carroll, Carter, Cashman, Chonko, Curran, Daggett, Davis, Diamond, Dore, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Handy, Hanley, Hepburn, Hoglund,

Hussey, Lawrence, Lebowitz, Lisnik, Look, Macomber, Matthews, K.; Mayo, Michaud, Mills, Mitchell, Murphy, T.; Nadeau, G. G.; Nicholson, Nutting, Paradis, E.; Priest, Reed, Reeves, Richard, Rotondi, Ruhlin, Salsbury, Scarpino, Seavey, Small, Strout, B.; Swazey, Tardy, Thistle, Tupper, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Aliberti, Begley, Bott, Brown, Callahan, Clark, H.; Coles, Conley, Cote, Dexter, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gwadosky, Hale, Harper, Hichborn, Hickey, Higgins, Holloway, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, Lord, MacBride, Mahany, Martin, H.; McGowan, McHenry, McPherson, McSweeney, Melendy, Moholland, Murphy, E.; Nadeau, G. R.; Norton, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pouliot, Racine, Rand, Ridley, Rydell, Sherburne, Smith, Soucy, Stevens, A.; Stevens, P.; Strout, D.; Tammaro, Telow, Tracy, Vose, Walker, Warren.

ABSENT - Boutilier, Clark, M.; Crowley, Dellert, Farnum, Gurney, Hillock, Jackson, Kimball, Lapointe, Manning, Marsano, O'Gara, Pines, Rice, Rolde, Sheltra, Simpson, Stanley, Taylor, Weymouth.

Yes, 65; No, 64; Absent, 21; Vacant, 1; Paired, 0; Excused, 0.

65 having voted in the affirmative, 64 in the negative, with 21 being absent and 1 vacant, the Majority "Ought to Pass" Report was accepted, the Bill read once

Committee Amendment "A" (H-510) was read and adopted and the Bill assigned for second reading Thursday, March 24, 1988.

The Chair laid before the House the following matter: Majority Report of the Committee on Fisheries and Wildlife on Bill "An Act to Amend the Endangered Species Act to Provide for Injunctive Relief and Other Enforcement Remedies" (H.P. 1586) (L.D. 2164) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Endangered Species Act" (H.P. 1875) (L.D. 2567) which was tabled earlier in the day and later today assigned pending the motion of Representative Jacques of Waterville that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I guess we are setting up another agency, taking land, and giving the towns more responsibility. I oppose this bill for one major reason but I feel it a very important one. We are taking people's property, we are not reimbursing them. I think that is wrong.

I know we had a \$35 million bond issue and there is a lot of land now that has been set aside but not paid for. They were after \$50 million and they got \$35 million so I am sure that that will not cover all the land that they now have got set aside.

If they had a fiscal note on this bill and had gone to the General Fund for what money they needed, I feel I could have supported it.

At the committee work session, I believe Representative Jacques gave a good scenario and it went something like this -- a person buys a five acre lot of land with dreams of building a home, maybe with a view of the mountains or overlooking a pond or lake and, after paying off that mortgage on the land, they are now ready to build that dream house. But, upon applying for a building permit, they discover the Fish and Wildlife Department had

found a rare frog or anything that might be on the endangered species list, and is denied a building permit. Their dreams are shattered. But, there is good news, you still own the land and you can pay the taxes but you can't use it. Now I ask you, is this what the American dream is all about?

Well, I don't feel too good about this and I guess I can't put on the Record what I think about it.

Section 3 of the bill is probably needed and I support that. That permits the Attorney General to bring injunctive proceedings to prevent the harm, misuse, export, possession, sale or harassment of endangered species. This parallels the injunctive authority of the Attorney General to enforce laws administered by the Department of Environmental Protection. That is what I would support and no less and that is in the Minority Report.

I would hope you would vote against the pending motion and vote with me on the Minority Report.

I ask for a roll call, Mr. Speaker.

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 Cherryfield, Representative Farren.

Representative FARREN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read to you from statute why I was on the Minority Report. I questioned whether or not the Majority Report is needed. This is a declaration of purpose, "The legislature finds that various species of fish and wildlife have been and are in danger of being rendered extinct within the State of Maine and that these species have aesthetic, ecological, educational, historical, recreational and scientific value to the people of the state, the legislature therefore declares that it is the policy of the state to conserve by according such protection as is necessary to maintain and enhance their numbers all the species of fisheries and wildlife found in the state as well as the ecosystems upon which they depend."

The department is already doing the investigation and developing habitat protection. As was stated earlier, the Attorney Generals' representative testified that they needed injunctive authority which is found in the Minority Report. The department and those that want to protect endangered species, which I myself feel that we should do, must work cooperatively with the landowners in protecting habitat and not dictate that they must abandon large portions of their land without some assistance. If we truly want to protect the habitat, and I believe we do in some instances, we all should share in the cost and not expect the communities and the landowners to bear the cost which is suggested in the Majority Report.

I would hope that this body would vote against the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Canaan, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank the Fisheries and Wildlife Committee for the work that they did on this particular issue. It is a complex issue. I would urge you to support the Majority

Report of the Committee on Fisheries and Wildlife. It is legislation that I proposed to the committee.

I do want to tell you exactly what the bills before you do because I think there has been some misinformation reported on this floor already during this debate. The Majority Report allows the Commissioner to designate essential habitat for the preservation of the species and establish management guidelines for this habitat. It prohibits state agencies and local governments from permitting projects that will significantly alter these areas and it establishes a variance procedure. It establishes the ability of the Attorney General to file an injunctive provision to stop projects that violate these laws.

The Minority Report establishes the authority of the Attorney General to file an injunction to stop harassment or harm to endangered species. It is not the intention of the sponsors of this legislation to take anyone's land away from them.

Earlier this week, I had a conversation with a friend of mine who serves in this body. We were talking about endangered species in this particular bill. The conversation started about what you would do if you had a particular piece of land and there was a three spotted toad or something like that on your property and you wanted to develop that land. This person, who is also a member of this body and a good friend of mine, said that he would walk down by the toad and drop a big flat rock on it. Well, I thought that was a discussion we might have around the hunting camp and something that we would talk about after a day in the woods or a day on the lake. Then I thought to myself, well, that really isn't the way that we should be dealing with nature's most precious endangered species.

It is the intention of this legislation to allow the Commissioner to designate the habitat of endangered species and not to take anyone's land or prevent them from building or developing their land. There are 150 eagle nesting sites in the State of Maine. Now, I want you to think about that in terms of how big the State of Maine really is. We have 32,000 square miles of area in the State of Maine. Now, if you took that 150 eagle nest locations and put a 1500 foot buffer around every one of them, you would be talking about 1/1000ths of a percentage of land mass in this state. I want you to put that in perspective when you vote on this bill today. I intend this to be on the Legislative Record that we don't intend to take anyone's land away from them but only to let them know and let them beware that there may be an endangered species on the property that they are purchasing, have bought, or has been passed on to them by a family member.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I know the intent is very good here. But again, if the Fish and Wildlife Department goes to a town and tells them there is an area there that they want protected and you cannot issue a permit, that to me, is a taking without reimbursement. I cannot see it any other way. I don't care whether you own five acres or ten thousand or a hundred thousand acres, a taking is a taking, around an eagle's nest or anything else. I think the person that owns the land should be reimbursed. If we wait for the state to buy the land with a bond issue. I am wondering how long it would take.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I am going to try to lay this bill out as it truly is. Originally, the bill was designed to give the Attorney General's Office injunctive relief in the event that an endangered and threatened species (this isn't everything that comes across the board) was being threatened.

Everybody assumed the AG's Office had that power already but they do not. It was only when Commissioner Vail of the Department of Inland Fisheries and Wildlife came before the committee and said, "I need the language in the first part of this bill." What the language does is it directs the Commissioner to designate an area as a critical habitat area that is being utilized by these threatened and endangered species. This is a double-edged sword -- up until now, no one has known for sure where the areas are. So if you wanted to build a shopping mall, a log cabin, or highway, you got into the whole thing of one group saying it was and one group saying it wasn't and nobody knew for sure. The Department had to come in, make a study, and it delayed the whole thing.

What the department is looking at is, once and for all, to be able to document and establish critical habitat areas for endangered and threatened species in the State of Maine. He is the only one that can do that.

The question about taking without compensation -- all the Commissioner can do then is make that information available to your local planning board, zoning board, LURC and DEP so they could use that information in issuing their permits. Now if that agency issued a permit -- yes indeed, it would be in violation of the law, if they issued a permit to allow construction or disturbing that habitat but that is not to say that they couldn't grant a permit and have you move the road over a little bit or have you build a house on the other end of the lot. That is how 95 percent of the solutions will be solved.

It is going to be very rare that you are going to have a case where somebody is going to lose their entire piece of land because of this ruling.

Under federal law, as explained to us by Fred Hurley the Director, they can and have established zones around eagle nests of 300 feet, 900 feet and 1200 feet. Indeed, that is only when that mother eagle is sitting on the eggs because that is the time when she is most susceptible by being disturbed. That is February, March and April, the rest of the time, they are extremely tolerant of human activity. But there are three months out of the year when they should be careful.

Now out of all these 25 or 27 threatened and endangered species, some of them are out in the ocean. I doubt very much if you would be building a shopping mall or a log cabin out in the ocean.

There are nine species that are going to be involved in this. The first one is the bald eagle, that is something that everybody can equate to. There are 90 nesting pairs left in the State of Maine, 152 historic sites where eagles have nested in the past.

Peregrine falcons, there are seven restoration sites but the peregrine falcon can be found in New York City on the skyscrapers or on Moosehead Lake up in the off end. They are very, very adaptable creatures and the Commissioner made it very clear that there is no need to establish protection zones for them because they will adapt from city life to the upper end of Moosehead Lake.



Then we have the Golden Eagle -- there is one nesting pair and there are 10 historic sites and I think it would be very hard for the Commissioner to establish all 10 historic sites without some activity from the Golden Eagle. I would say by the looks of the pairs involved here that the life of the Golden Eagle in the State of Maine is going to come to an end very quickly.

We have piping plovers. There are 11 pairs, six areas where the 11 pairs of plovers now nest. Doesn't take much room for a piping plover to nest.

Leased tern, which is the one we have heard a lot about and everybody is becoming involved, there are 89 pairs, six areas that they are actively using now, 9 historic sites.

The grasshopper sparrow -- probably doesn't have a lot of political clout, it is a very small bird, 11 pairs, 3 areas where these birds are known to nest at this time. There are 5 historic sites.

Sedge wren, unknown, don't know if we have any in the State of Maine, don't know if there are any nesting sites in the State of Maine, that is one thing the Commissioner has got to find out.

The box turtle -- there is one, probably isn't going to be two or three, there is only one. We don't know where they nest, we don't know where their sites are, that is something the Commissioner is going to have to determine.

Then there is a snake called the Black Racer Snake -- unknown, not sure if there is any left in this state. If there are any areas where there is critical habitat for this snake to reproduce, we don't know. That is it. That is what we are talking about.

There are over 3,000 species of birds and wildlife that are no longer existing on the face of the earth and the main reason they are not is because we, in our haste to grow, did away with their habitat.

All this bill wants to do is to enable the Attorney General's Office to protect that habitat because, under current law, both state and federal, until you go up and grab that animal by the neck and wring its neck, there is nothing you can do to stop it. You cannot protect the areas where these birds and animals reproduce, nest and live. It doesn't make an awfully lot of sense to have to wait until an animal is dead to be able to afford it some sort of protection.

It is true that in the first section of this bill there is a section there where there is some question. I am in hopes if we get this bill by First Reading today, we can follow parliamentary procedure and offer an amendment in Second Reading that will try to clear up this discrepancy. But, don't throw this whole bill out because the Majority Report does, indeed, give the AG's Office the injunctive relief provision but it also allows him to protect the actual established nesting sites established by the Fisheries and Wildlife Department who is hired to do that. Up until this time, it has been a point of contention and argument so I think it would make more sense for the people looking to develop and build to know for sure, from the very beginning, where these sites are. The Commissioner cannot be put in the position of making social and economic decisions on whether a business or a highway should be built somewhere, he can only provide the biological data. He will provide that data to the towns, planning boards, and any other state agency that will be involved. If that state agency makes a decision to grant an unconditional permit, it will probably end up in court.

As you all know, you cannot take without compensation in the State of Maine. The Commissioner is not going to be telling you what can and cannot be built. He will be telling you what the potential damage is. That is his job and he asked for these tools to enable him to do the job. That is why I signed on with the Majority Report. It is not a simple matter of injunctive relief or not have injunctive relief. It is injunctive relief with the other things that the Commissioner asked for.

If something is taken without compensation, there is a method of relief for them. I don't believe the towns are going to want to get into that situation to start off with and the circumstances are going to be mediated and mitigated and most of them can do that with all parties being happy, no one losing out, and the endangered and threatened species in the State of Maine, which are very, very few, will have at least have half a chance to continue to survive. That is why I signed the Majority Report. That is the whole story behind the bill. If you don't believe it, call the Commissioner and ask him yourself. He told us that without this language, he could not do the full job.

As I said, there is a point of contention and I agree with that point of contention and we will be getting together to offer an amendment after Second Reading so it will straighten that out and be clear to all parties involved.

I would urge you to support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representative GREENLAW: Mr. Speaker, Men and Women of the House: I hope you will vote against this bill. I agree, for the first time since I have seen this bill, with Representative McGowan. If his friend will drop a rock on a poor little, pink bellied frog, he will certainly shoot an eagle and that is going to kill more eagles than the bill said.

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 Gorham, Representative Brown.

Representative BROWN: Mr. Speaker, Men and Women of the House: It has gotten to the point where every one of us are an endangered species. With this legislature in session, we are more endangered every day. Now, the Audubon Society wants to take control of your own land while you continue to pay taxes on it but cannot use it as you wish.

The Majority Report is truly a bad, bad bill, another enforcement on your property. I urge you to vote for the Minority Report. It is the lesser of the two evils. It gives the Attorney General the authority to bring injunctive proceedings to prevent (a) a threat to public health and safety; (b) environmental damage or (c) a substantial injustice. Which of the endangered species in your mind are more important? The human race or those the Audubon Society wants to protect? I will leave it to your wisdom. I would urge you to vote with me for the Minority Report.

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

Representative DUFFY: Mr. Speaker, Men and Women of the House: I don't think it was too long ago, maybe the first part of the last session, that we passed an amendment to the endangered species bill to help protect the American Bald Eagle from being harassed and molested to the point where we were killing them and making them leave their nest and not being able to further produce anymore eagles. Some of them were going away.

What bothers me is that if we are just trying to protect the animal, that is one thing, but if we have to go a step further, we need to go a step further and that is to protect the environment around some of these endangered species. Like Representative Jacques said, what good will it do if we just let it ring its neck and then we have a funeral for it and say, "Isn't that too bad, we should do something about it."

I think the reasoning behind this is just to make it complete. Let us keep what we have, let us enjoy what we have, let us compensate for what we take, but let us certainly keep those endangered species that we have now.

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

Representative RACINE: Mr. Speaker, Men and Women of the House: If the purpose of this bill was to save bald eagles, there are a couple sitting here in the back row and I am for it.

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

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

Some of the truckers that are hauling wood 50 to 60 miles off the highway -- I am wondering if something did happen and one of them fell out the nest or one of them got run over, what could we do in a case like that? Right now we do haul 50 miles off the highway, hauling 25,000 cord of wood a year in different spots in Washington County.

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

The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: To answer the good gentleman's question, if you don't intentionally kill the bald eagle, you will not be in trouble. If you go out of your way and try to run that bird over, then you should be in big trouble.

While I am on my feet, what was said, unfortunately, was not the case. In all the instances, what we would like to do is make the landowner informed of what the potential is in his work on his land. We do not want to take his land away and, in all cases in the State of Maine when there has been a critical area that has been established, the nature conservancy has come forward, Audubon has come forward, people have come forward and, indeed, purchased that land to make sure those creatures are protected forever and ever. That is what we would like to do -- inform all the people around so no one gets in trouble and everyone can feel good at the end of the day.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Jacques, that the House accept the Majority "Ought to Pass" Report.

The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, I wish to pair my vote with the Representative from Wiscasset, Representative Kilkelly. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Jacques, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 219

YEA - Aliberti, Allen, Anthony, Baker, Bost, Bott, Boutillier, Callahan, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Daggett, Davis, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Foster, Gwadosky, Hale, Handy, Harper, Hichborn, Hickey, Higgins, Hoglund, Holloway, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Lacroix, Lapointe, Lisnik, Lord, Mahany, Manning, Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Nutting, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Racine, Rand, Reeves, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Seavey, Sheltra, Simpson, Small, Soucy, Stevens, A.; Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, The Speaker.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bragg, Brown, Curran, Dellert, Dexter, Farnum, Farren, Foss, Garland, Glidden, Greenlaw, Hanley, Hepburn, Lawrence, Lebowitz, Look, MacBride, Macomber, Martin, H.; Matthews, K.; McPherson, Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Reed, Salsbury, Sherburne, Smith, Strout, B.; Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton.

ABSENT - Gurney, Hillock, Jackson, Kimball, Marsano, O'Gara, Oliver, Pines, Rice, Stanley, Weymouth.

PAIRED - Gould, R. A.; Kilkelly.

Yes, 96; No, 41; Absent, 11; Vacant, 1; Paired, 2; Excused, 0.

96 having voted in the affirmative and 41 in the negative with 11 being absent, 1 vacant and 2 paired, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading Thursday, March 24, 1988.

The Chair laid before the House the following matter: Majority Report of the Committee on Agriculture reporting "Ought to Pass" on Bill "An Act Relating to Horse Racing and Racing Facilities" (Emergency) (H.P. 1781) (L.D. 2434) which was tabled earlier in the day and later today assigned pending the motion of Representative Tardy of Palmyra that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Glidden.

Representative GLIDDEN: Mr. Speaker, Men and Women of the House: I would like to request a Division and speak in opposition to the motion.

First, I understand that speaking in opposition to harness racing in the State of Maine is like being in opposition to motherhood or apple pie. I am sure that you are all aware of million of dollars that are spent in the State of Maine each year as a direct result of the harness racing industry.

However, as the sole member of the Joint Committee on Agriculture to sign the "Ought Not to Pass" Report, I feel I must tell the full House my reasons.

At the present time, Maine's wagering dollar is divided as follows: 84 percent is returned to the

public, 13.4 percent is the track's share, 1.1 percent goes to the agricultural fair stipend and one-half of one percent (and I repeat one-half of one percent) is the State of Maine's share. In the calendar year of the racing season, the total handle for Maine's tracks was about \$45 million in 1987 and the General Fund revenue was about \$725,000.

This bill proposes to create a pool of extra money, about \$800,000 a year, which comes from two sources. First, the State of Maine's General Fund share of 1.1 percent of the handle would be capped so when the handle exceeded \$37 million, no further contributions to the General Fund would occur.

Under the \$37 million cap, the state's General Fund revenue would be about \$600,000 in 1987, a loss of \$125,000 a year in General Fund revenue. In my opinion, this means one thing, under the \$37 million dollar cap, the taxpayers in the State of Maine are subsidizing the harness racing industry to a tune of \$125,000 a year.

The second source of extra money is the increase take. The take is the portion of the handle which is not recycled in the form of winnings to bettors. This bill would increase the take from 16 to 18 percent in the case of regular wagers and from 25 to 26 percent in the case of exotic wagers. The increase in the take is a further subsidizing of the harness racing industry. This subsidy money would be used to increase the pools for certain races which represents the winner's earnings for the race.

Proponents of this bill argue that, by increasing the pool, attendance and wagering will also increase. The testimony in this matter reflects that the tracks in Lewiston and Scarborough are not hurting financially at the present time. In fact, 1987 was one of their best seasons.

I know from my responses recently received from my constituents that the majority would not support subsidizing the harness racing industry out of the state's General Fund. This is why I cannot support this bill.

I strongly urge you to vote no on the pending motion.

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

Representative TARDY: Mr. Speaker, Men and Women of the House: Just because of the closeness of the vote on the last 12 to 1 report, I feel compelled to speak in favor of the Majority Report on this issue.

At the public hearing, it was unanimous testimony in favor of this bill from all aspects of the harness racing industry in the State of Maine, an industry that has an economic impact to the state of \$200 million dollars. I am talking about the track owners, the horse owners, the Breeder's Association, the trainers, the drivers and most important to me, I think, the Agricultural Fair Association which derive their sustenance and livelihood from the take.

The good Representative from Houlton is absolutely right in the mechanics of this bill. I think perhaps what we are saying here is the cap of \$37 million is probably in the neighborhood of what this was in 1986. 1987 saw a tremendous surge in harness racing in the State of Maine due to the closing of tracks in other northeastern states putting a tremendous burden on the capital facilities at these tracks and there is a desperate need to improve and upgrade as well as to improve and upgrade the facilities in the agricultural fairs.

Because of increased costs of farm products maintenance, labor, increased land values, the racing industry as a whole has become a marginal operation for track owners, horsemen and horsewomen. I don't

want to forget them because there are a lot of women who own race horses.

The proposition here then is, are we in fact, costing the State of Maine \$125,000 capping this or by ensuring the continued viability of harness racing in the State of Maine, are we ensuring the continued receipts to the General Fund of the \$600,000 that the industry does contribute?

I urge you to support the Majority Report.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I will be extremely brief. The Administration supports the increased responsibility to the racing community. They made a statement, however, that they must carefully scrutinize the financial impact of this proposal. All that says is what it says on every bill that has a financial implication. It is just standard procedure.

Also the statement that they would prioritize it at a later day also falls into the same content.

The past three years has been a marginal industry. I won't go into details. I said I wouldn't. This is probably an excellent example of possible endangered species that perhaps Representative Jacques ought to include into his list of species. If you come from Pittston, Houlton, Ossiipee Valley, Bangor State, World's Monmouth, Northern Maine, Topsham, Skowhegan, Downeast Horse Congress, Acton, Union, Piscataquis, Windsor, Blue Hill, Springfield, the Clinton Lion's, Litchfield, Oxford County, Farmington, Common Ground, New Portland, Cumberland and Fryeburg -- these are all licensed fairs in your communities that will be benefited by this bill.

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

Representative MACOMBER: Mr. Speaker, Men and Women of the House: I will be very brief but I would ask you to look at this bill as if you were talking about a restaurant or something of that sort. Somehow, the connotation of horse racing seems to affect some people. I would point out to you that, anytime you improve your product or your business, the revenue increases. Today, if Scarborough and Lewiston went out of business, the fairs would also go out of business because that is where your horses are coming from. Nobody is going to have a stable of horses and run only at a few fairs in the Fall.

I would just like to point out that there are two race tracks in Maine. There are no other horse racing tracks or harness racing in New England. Foxboro Raceway went to the Massachusetts Legislature a year ago and asked for exactly the same thing we are asking for here today, an increase of purses. It was turned down and Foxboro went dark. That is why, last Fall, we had horses in Maine that would take care of a dozen tracks. On Labor Day in Scarborough, (I just happened to be there that day) we had the biggest handle that we had ever had. It is a good bill.

The SPEAKER: The pending question before the House is the motion of the Representative from Palmyra, Representative Tardy, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

90 having voted in the affirmative and 5 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

LEGISLATIVE HISTORY - SENATE, MARCH 23, 1988

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

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(Off Record Remarks)  
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On motion of Representative Matthews of Caribou, Adjourned until Thursday, March 24, 1988, at eight-thirty in the morning.  
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STATE OF MAINE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
SECOND REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Wednesday  
March 23, 1988

Senate called to Order by the President Pro Tem, Ronald E. Usher of Cumberland.

Prayer by Father Louis Berube of the Holy Family Catholic Church in Sanford.

FATHER BERUBE: Let us consciously acknowledge the presence of God among us. Heavenly Father we give You thanks for the blessing of a new day. We give You thanks for the great gift of life, the gift of eyesight, mobility and all other gifts that we take so easily for granted. We pray Your blessing on this Body today that ever here cooperation, collaboration, mutual respect and sincere desire to serve the citizens of Maine may be the hallmark of all that happens here. We seek Your blessing in the name of Your son, Jesus Christ our Lord. Amen.

Reading of the Journal of Yesterday.

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PAPERS FROM THE HOUSE  
Non-concurrent Matter

Bill "An Act Amending the Workers' Compensation Laws Exempting Design Professionals from General Civil Liability for Injuries on Construction Projects"

S.P. 238 L.D. 657  
(C "A" S-336)

In Senate, March 16, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-336).

Comes from the House with the Bill and Accompanying Papers RECOMMITTED to the Committee on JUDICIARY in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

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Non-concurrent Matter

HOUSE REPORTS - from the Committee on BUSINESS LEGISLATION on Bill "An Act Concerning the Display of Dealer Markup Stickers by New Car Dealers"

H.P. 1708 L.D. 2345

Majority - Ought Not to Pass.

Minority - Ought to Pass.

In House, March 21, 1988, the Minority OUGHT TO PASS Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

In Senate, March 22, 1988, the Majority OUGHT NOT TO PASS Report READ and ACCEPTED in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

On motion by Senator Baldacci of Penobscot, the Senate ADHERED.

The Secretary has so informed the Speaker of the House.

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Non-concurrent Matter

Bill "An Act to Change the Definition of Wine Coolers" (Emergency)

S.P. 959 L.D. 2544

In Senate, March 21, 1988, PASSED TO BE ENGROSSED.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-513) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.