

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Thirteenth Legislature

OF THE

State Of Maine

VOLUME IV

SECOND REGULAR SESSION

March 25, 1988 to May 5, 1988

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HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act Relating to 6-Axle Vehicles Carrying General Commodities"

S.P. 869 L.D. 2264
(C "A" S-359)

In Senate, March 28, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-359).

Comes from the House Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

On motion by Senator DOW of Kennebec, Tabled Unassigned, pending FURTHER CONSIDERATION.

Non-concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Make the Language of the Constitution Gender-Neutral

H.P. 1877 L.D. 2571
(H "A" H-521; S "A" S-360)

In Senate, March 25, 1988, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-521) AND SENATE AMENDMENT "A" (S-360), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-521) AND "B" (H-579) AND SENATE AMENDMENT "A" (S-360) in NON-CONCURRENCE.

On motion by Senator TUTTLE of York, the Senate RECEDED and CONCURRED.

Senator MATTHEWS of Kennebec was granted unanimous consent to address the Senate off the Record.

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

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

SENATE REPORTS - from the Committee on TAXATION on Bill "An Act Concerning Access Fees"
S.P. 297 L.D. 847

Majority - Ought Not to Pass
Minority - Ought to Pass

Tabled - February 2, 1988, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT
(In Senate, February 2, 1988, Reports READ.)
The Minority OUGHT TO PASS Report was ACCEPTED.
Under suspension of the Rules, the Bill READ TWICE and PASSED TO BE ENGROSSED.
Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Off Record Remarks

The ADJOURNMENT ORDER having been returned from the House READ and PASSED, in concurrence, on motion by Senator DUTREMBLE of York, ADJOURNED until Monday, April 4, 1988, at 12:00 in the afternoon.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
57th Legislative Day
Monday, April 4, 1988

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

Prayer by Reverend David Garnett, Open Door Bible Church, Lisbon.

National Anthem by Winthrop High School Band.
The Journal of Thursday, March 31, 1988, was read and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Leave to Withdraw

Report of the Committee on State and Local Government reporting "Leave to Withdraw" on Bill "An Act to Modify the Law Regarding the Androscoggin County Budget Committee" (Emergency) (S.P. 828) (L.D. 2154)

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

Ought to Pass in New Draft

Report of the Committee on Energy and Natural Resources on Bill "An Act to Enable the Creation of Watershed Districts" (S.P. 872) (L.D. 2273) reporting "Ought to Pass" in New Draft (S.P. 982) (L.D. 2610)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

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

Divided Report

Later Today Assigned

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act Concerning Access Fees" (S.P. 297) (L.D. 847)

Signed:

Senators:

SEWALL of Lincoln
TWITCHELL of Oxford

Representatives:

NADEAU of Saco
SEAVEY of Kennebunkport
CASHMAN of Old Town
SWAZEY of Bucksport
WHITCOMB of Waldo
DORE of Auburn
ZIRNKILTON of Mt. Desert
JACKSON of Harrison

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

Signed:

Senator:

DOW of Kennebec

Representatives:

DUFFY of Bangor
MAYO of Thomaston

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

Reports were read.

Representative Cashman of Old Town moved that the House accept the Majority "Ought Not to Pass" Report.

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

Non-Concurrent Matter

An Act to Enhance Enforcement of the Handicapped Parking Laws (S.P. 974) (L.D. 2587) which was passed to be enacted in the House on March 31, 1988.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-389) in non-concurrence.

The House voted to recede and concur.

PETITIONS, BILLS AND RESOLVES

REQUIRING REFERENCE

Reported Pursuant to Resolve

Representative VOSE from the Committee on Utilities, pursuant to Resolve 1987, chapter 52 ask leave to submit its findings and report that the accompanying Bill "An Act to Establish an Enhanced 9-1-1 System" (H.P. 1911) (L.D. 2608) be referred to the Joint Standing Committee on Appropriations and Financial Affairs for Public Hearing and printed pursuant to Joint Rule 18.

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

ORDERS

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

ORDERED, that Representative William B. O'Gara of Westbrook be excused March 30 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Christopher S. Gurney of Portland be excused March 21 through 29 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roland S. Salsbury, Jr. of Bar Harbor be excused March 29 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative David G. Stanley of Cumberland be excused March 28 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Norman Racine of Biddeford be excused March 30 for health reasons.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative SHELTRA from the Committee on Business Legislation on Bill "An Act to Amend the Maine Business Corporation Act in Relation to Petitioning the Court for the Removal of Directors" (H.P. 1802) (L.D. 2466) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Clarify Reporting Requirements Regarding Competency of Health Care Practitioners" (H.P. 1873) (L.D. 2565) reporting "Leave to Withdraw"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Regulate the Operation of Roller-Skating Rinks" (H.P. 1645) (L.D. 2244) reporting "Leave to Withdraw"

Representative MCGOWAN from the Committee on Appropriations and Financial Affairs on Bill "An Act to Further Implement Programs and Activities of the Department of Economic and Community Development" (Emergency) (H.P. 1787) (L.D. 2448) reporting "Leave to Withdraw"

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide a More Equitable Distribution of Homemaker

Funds" (H.P. 1580) (L.D. 2158) reporting "Leave to Withdraw"

Representative LOOK from the Committee on State and Local Government on Bill "An Act to Promote Fiscal Responsibility in Androskoggin County Government" (H.P. 1758) (L.D. 2407) reporting "Leave to Withdraw"

Representative BOUTILIER from the Committee on Human Resources on Bill "An Act to Revise the Certificate of Need Process Dealing with the Purchasing and Delivery of New Medical Services" (H.P. 1825) (L.D. 2500) reporting "Leave to Withdraw"

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

Refer to the Committee on Audit and Program Review

Representative MANNING from the Committee on Human Resources on Bill "An Act to Promote More Effective Investigations of Child Abuse Allegations in Out-of-Home Settings" (H.P. 1804) (L.D. 2468) reporting that it be referred to the Committee on Audit and Program Review.

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

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought Not to Pass" on Bill "An Act to Amend the 2-Inch Clam Law" (H.P. 1903) (L.D. 2600)

Signed:

Senators:

TUTTLE of York

ESTES of York

Representatives:

MITCHELL of Freeport

CROWLEY of Stockton Springs

HOLT of Bath

SALSBURY of Bar Harbor

RUHLIN of Brewer

LOOK of Jonesboro

KETOVER of Portland

RICE of Stonington

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

Signed:

Senator:

CAHILL of Sagadahoc

Representatives:

COLES of Harpswell

SCARPINO of St. George

Reports were read.

Representative Mitchell of Freeport moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: You may have noticed that this is a strange looking report. I hope you bear with me because it is a fairly esoteric subject for inland legislators but I think it is important.

What is wrong with the two inch clam law? The two inch clam law was enacted as a marketing measure, not as a conservation measure. It has only limited conservation value. In fact, when asked to describe this conservation value, an eminent state biologist described it with a curious phrase. He said, "When used in conjunction with clam management of districts, the two inch law has conservation value." It took me about four days to find out what that meant. What it means is that in a clam management district (about half of our coastal towns have this) they manage their clams and conserve their resource

in the only effective way they can and that is by limiting the number of licenses and by rotating flats. You need a bench mark to decide when you rotate flats, when you open them and when to close them. Two inches provides a bench mark. Two inches is not a necessary number in itself, another number could also provide that bench mark, thus serve as the same limited conservation value. The Minority Report, in fact, proposes such a number of an inch and a half.

What else is wrong with the two inch clam law? As a marketing measure, I think it is the only marketing program in this state that makes a law to violate the program standards. It is the same as if those of you in Aroostook County were told it would be illegal to dig any potato under two and quarter inches.

We have a certified fresh fish program, we have a potato quality program. The Department of Marine Resources is working on a program to promote quality in our shellfish as well. All of these are voluntary programs involving voluntary participation. Not one of them makes you a criminal if you don't obey the guidelines.

The two inch clam law, on the other hand, does make you a criminal. It makes you a Class D criminal. If you have in your possession too many clams that are under two inches, even though you are doing no damage whatsoever to the resource, is it appropriate that we have a law not intended to protect the resource but intended to help marketing of a product that makes Class D criminals out of people? I don't believe it is.

The two inch clam law creates a Catch 22 situation for some dealers. The market for clams is basically divided into two areas, the shucker market which are the larger clams and the steamer market which is the smaller clams.

A person that owns a shucking house could buy a perfectly legal bushel of clams, sort out all those clams which he plans to shuck, and the remaining clams which are too small to shuck and which he would like to sell to a restaurant for the steamer market, are suddenly illegal. That person having bought and behaved in accordance with this law is now subject to fines as much as \$1,000 and subject to the threat of a jail term -- for no good reason.

Another problem with the two inch clam law is the difficulty of enforcing it. It takes a marine warden 45 to 60 minutes to determine whether a single bushel of clams is in violation of that law. He has to count every clam in that bushel. He has to measure every smaller one to see if more than 10 percent of them are shorter than two inches. This is a tremendous waste of scarce marine warden resources and a tremendous waste of the taxpayer dollars that go to support this. Again, remember there is no conservation value to this.

Another problem with the enforcement -- it is so difficult for us to catch a digger on a flat because they often come in on a boat. There are quite a few of them on the flats and there is usually only one warden at a time. The wardens focus on enforcing the law when the clams arrive at the dealer. Clamming is done by the tide. When the tide comes in, the clambers take what they have dug up and go to the dealer. They arrive at the dealer in bunches. The dealer does not have time to take 45 to 60 minutes to examine every bushel of clams before he buys it because sometimes he is buying 50, 60 or 100 bushel in the space of a half an hour. The wardens, on the other hand, don't want to take that time either because they don't want to hold up all those diggers so they will wait until the dealers have bought all

the clams and then examine them and fine the dealer, not the digger, again for no good reason because there is no conservation value in this law.

The Minority Report would change that two inch to one and a half inches, that would maintain the value it has for clam management districts. The Minority Report would also eliminate the tolerance on short clams, changing it from 10 percent to zero, that would simplify the enforcement problem. It means that a warden doesn't have to count every clam, you just have to find a couple that are under an inch and a half. That means he can enforce the law against the diggers as easily as he can against the dealers. More than that, it means that Maine can supply its own clam market.

Last Summer at the Yarmouth Clam Festival, those of you who may have gone there, probably thought you were eating Maine clams. The chances were, you were eating Maryland clams because in Maine not enough clams have been harvested under the two inch law to supply our own market. In the five years the law has been in effect, the harvest has declined every single year. The price per bushel has gone up to the point where clams cost as much as lobsters do. Yet the overall income to the industry, because of the decline in the amount harvested, is down. Again, for no good conservation reason.

If we want to promote good quality clams in our out-of-state markets, let's put into place a marketing program. If we want to keep our clam dealers and clam diggers in business in an honest legal fashion, let's make sure that they are not made into criminals when they are not hurting the resource. If you want to bring some sensible allocation of taxpayer dollars and marine warden resources, let's get rid of the two inch clam law and enact the one and a half inch law with zero tolerance.

I urge you to vote against the pending motion.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: When this legislature passed the two inch clam law a number of years ago, it directed the Marine Resources Committee to study the issue in 1988. That is what we did and that is the result of this bill.

The two inch clam law is fairly controversial. You see a lot of clam diggers on both sides of the issue, some of them like it and some of them don't like it. Most of them will tell you which side of the issue they are on.

I will tell you one thing, the price of clams has never been higher. In fact, it exceeded \$80 a bushel last year and it has risen at twice the rate of the consumer price index since the two inch clam law was passed. The clams that are coming out of Maine now are a higher quality clam than we used to produce. There used to be a lot of small stuff, the diggers have a special word for it that you cannot use on the floor of this House, but there was a lot of it that was sold out of Maine. Every time it went into Massachusetts and the wardens stopped it, it was against the law there and the whole load was thrown out.

Representative Coles said that it isn't a conservation measure. I am not sure that anyone can prove that because there are so many factors that affect the population of clams. There is a lot of resistance to this particular law in the Waldoboro area. But in one of our three hearings, the one in Brunswick, a Waldoboro digger did tell the Marine Resources Committee that the two inch clam law was the only conservation measure they had there.

The Minority would give you L.D. 2600 as the source of fixing up the clam industry. Representative Coles said (and he was right) that clam management districts are important, but there is no mention of clam management districts in this bill. All it says is that you will go from two inches to one and a half inches. I want to tell you that one and a half inches is a ridiculously small clam.

I was looking around when I had clams this Fall and I saved the small ones so that I could get a real feel for how small a small clam is. The smallest one I ever got was one and seven eighths of all the clams that I bought. I don't even think you would even want to bother with the one and a half inch clams.

The second part of the bill deals with the tolerance. Representative Coles mentioned that some dealers get into trouble because they sort their clams and the percentage of clams under two inches gets to be too high. We put the tolerance into the law so that there would be a little flexibility there. If a dealer buys two inch clams and he buys all two inch clams, there is no way that he is going to sort those clams and have ten percent of them being under two inches. But, if you push it and you say ten percent tolerance, you interpret that to mean that 90 percent of the clams you buy have to be more than two inches and ten percent of them have to be short, then you are going to get into trouble as soon as you start sorting them. All people have to do to avoid that is start complying with the law.

I talked to two dealers in my district and I talked to them a lot. One of them buys any clam he can get and he is in trouble with the law a lot. The other dealer has never been in trouble with the law and I said, "How do you avoid staying out of trouble?" He said, "I don't buy clams that are small and I tell my guys that supply me that I am not going to buy them."

Clam digging is very, very, very hard work. I did a little bit of it myself when I was younger. I didn't get \$80 or \$85 a bushel, I got \$12 a bushel for doing it, it is a lot of work. The guys out there digging clams on the flats for the first time are making a decent living with the two inch clam law. What you are proposing here would be to go back to the old days with one and a half inch clams. What that is going to do, it means those guys out on the flats are going to get less money for their work. It is going to take money out of their pocket.

As far as being a conservation measure or anything like that, it just doesn't make any sense to me at all -- one and a half inches or two inches. I don't know where one and a half came from, I don't know what the logic is behind it, I don't understand it. Taking the tolerance away is ridiculous -- at least when you have a ten percent tolerance, you can be out there digging two inch clams and if you happen to pick up a small one and throw it in your bucket, you are not breaking the law. If you are going out there and digging one and a half inch clams with no tolerance, one single clam that is too small is going to put you in violation of the law and it is a Class D crime that carries a \$1,000 fine.

I would ask you all to go along with the majority of the committee and accept the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Stonington, Representative Rice.

Representative RICE: Mr. Speaker, Men and Women of the House: I hope you will bear with me through a very bad case of laryngitis as I try to speak to you today on an issue that I feel is very important.

I would like to read into the Record part of a letter that I received from a husband and wife whose sole support is clam digging on the island of Deer Isle. I think it may give you some local perspective as to what the issue is. This House can debate whether it is a conservation measure or an economic measure to the hilt, but I feel that this letter which was personally written to me on the 13th day of March is worth listening to.

"The two inch clam law is working for us. The evidence of more seed clams again in the flats make us realize that the two inch law is beginning to make a difference. Young clams on the clam flats are essential if good digging is to be maintained from year to year. A clam up to two inches has a chance to reach market size before it is taken. But, the smaller the clam is when it is taken, the less time it has to spawn. If you take the seed, you can't expect the clams to grow.

The clam industry is important to all of us and to our area. It needs help, but taking the two inch law off, is not going to help any one and may resolve in a disaster. The two inch law will help but only if it is given more time."

I think perhaps one of the questions in the debate today is the time factor. I am not sure that we have really given this law the adequate time to evaluate its effectiveness.

We have heard a lot about what is wrong with the two inch clam law from my good friend from Harpswell. Perhaps we need to know some things that are right. Local communities have been allowed under the two inch law to manage some of their resources. I would hope that would be a proposition that many of you in this House would support, I certainly do.

I represent an area where at least three of my towns have taken an active interest in the clam flats, something nobody thought much about years ago. They are actively managing their own flats, they are trying to do some reseeded of the flats so that there will be more clams for more people to dig. We do have some local clam wardens in our area which help alleviate the burden from the marine patrol officer. I can say beyond a doubt that, as far as I am concerned, the two inch clam law is working. It is not a perfect law but I don't think there are many perfect laws that we pass in this House but it is a law that is working well.

I guess when we talk about the tolerance issue, you have to understand what that means. I don't know how many of you know how many clams there would be in a bushel but a clam that is this size, folks, there are going to be hundreds of them in a bushel. If you are going to have absolutely no tolerance, zero, every single clam in that bushel is going to have to be an inch and a half. Right now, we have a ten percent tolerance. I think it is an effective tolerance.

Most clam diggers, just like most lobster fishermen, can tell by their eye whether or not that clam is an inch and a half, an inch and seven eighths or two inches, just like he can tell on a lobster whether it meets the measure.

I would like to end with this thought, that Maine will probably never be able to supply all the clams that are demanded in this state, but neither do we supply all the lobsters that are demanded in this state.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I just want to tell you that this committee worked very hard on deciding what they were going to do. We had three public hearings, one

in Machias, one in Rockland, and at Brunswick. the Fisherman's Forum, where we heard from the pros and the cons.

The two inch clam law was enacted in 1984. I remember how the Marine Resources Committee then did an awful lot of research in putting this law into effect. The purpose of this was conservation, improving the quality and the economic return of the commercial clam market, reducing the waste in processing resulting from small clams, and improving the interstate marketability of the Maine clam.

The majority of the clam diggers and dealers and shuckers favor the retention of the law. Sure, they do not want to be criminals and I don't blame them. I don't think anybody wants somebody looking over their shoulder watching them. Maybe we need more funds for enforcement.

We found the effectiveness of the two inch clam law as a conservation measure. The law has not been in effect for a long enough period for reliable information to be accumulated. I think it is time we give it a little more time to see how it is working. They may have fewer bushels of clams but the value of those bushels have increased at least proportionately to compensate for the reduction in volume. The overall fishing market, the overall industry, is making more money than they have ever made before. The majority of the clam dealers appeared to favor the retention of the two inch clam law as improving the quality value of the product they sell.

As a result of the two inch clam law, the size and quality and interstate marketability of the clams has been improved. Because of these findings, we recommend that the two inch clam law be retained.

This committee, by the way, usually tries to work out everything. It is a wonderful committee who tried to compromise. This was one time that my good friend, Representative Coles, had to go along with some of his people back home, I understand that. Originally I believe he was in favor of this. I hope that you would please go along with the majority of our committee.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: First, let me clear up a couple of minor confusions. The first one occurred from my good friend from Stonington, Representative Rice, when she was talking about the ability of the local towns to set up the conservation ordinances. Please understand that this bill, in no way, affects those conservation ordinances. Any independent town can still set up a conservation ordinance and can still have a two inch clam law if it so desires. Roughly, half of the towns on the coast have municipal ordinances and half don't. So, don't confuse this piece of legislation with a town's ability to enact conservation measures, they have it now regardless of what happens with this bill. That is number one.

Number two, it is very clear by the Department of Marine Resources own information that, since the two inch law has been enacted, the harvest has gone down, the price has gone up, but the price has not gone up commensurate to the drop in the market and the industry as a whole. While some individual diggers may be making more money, the industry as a whole is generating less revenue in this state.

People say we need a little time to check this out. We used to have, believe it or not folks, a two inch clam law that was repealed (if memory serves correctly) in 1960. Then we reenacted it in 1984. Funny thing happened -- when they repealed the two inch clam law in 1960, the clam harvest almost

doubled and it maintained that for 24 years and then we reenacted it and the harvest is now dropping drastically. So, we are looking at over 40 years of documented history, all the information kept by the Department of Marine Resources of an era not having the two inch clam law, an era having a two inch clam law, and once again, an era of returning to a two inch clam law. It is very clear what has happened. The price goes up, the product harvest goes down. The price race is not commensurate and the industry, as a whole, suffers.

Now, my good friend from Freeport, Representative Mitchell, was mentioning quality. Quality is a very relative term. It has to do with the market that the plan goes to and, if you are going into a shucking market or a fryer market, then a high quality clam is two inches and above. If you are going into a steamer market, a high quality clam is an inch and a half to two inches. The bigger ones, the ones over two inches, they call water bellies and they can't sell them as steamers.

By passing a two inch law, we have in effect removed our state from a nationwide steamer clam market. We cannot get into it. We can't provide steamer clams to the people who come here as tourists to eat clams and we can't sell them in California or Chicago or in Houston. We have cut ourselves out of the nationwide market.

Let's look at the conservation side of it, again from the Department of Marine Resources. Average size for a clam to start spawning is three-quarters of an inch -- about the size of your thumbnail. Is it going to make any tremendous difference whether we harvest it at twice its sexually mature size or at almost three times its sexually mature size? I think not. We also have to look at the fact that there are certain areas in this state where your clam population is based on a tremendous number of variables. They deal with water temperatures, currents, feed, predators, all kinds of things. There are some areas in this state whose clam set is so dense, we are talking about five hundred clams per square foot. The clam population is so dense that they do not grow to two inches, they grow to about an inch and three-quarters and then they die because there is not enough feed to keep them alive.

What we have just done is totally remove those areas from any harvest ability and we are, in effect, wasting (just absolutely wasting) a resource.

Hearing were mentioned -- I was only at one of them, I was at the one at the Fisherman's Forum, and fatuously for us and unknown to the committee or anyone else there, there was a biologist from the National Marine Fisheries Service who had been involved in clam studies, a man by the name of Vaughn Anthony, who just stopped in, he was there for another seminar. He just happened to stop in to see what we were saying. When he heard what was being said, he could not resist, he got up and provided some unsolicited independent testimony. What he said was that a two inch clam law, by itself and not in conjunction with a formal conservation program that involved closing of flats, opening of flats, and controlling of the diggers, could actually be detrimental to the well being of the clam population.

This would happen in two ways, (1) they would overpopulate and (2) when the digging was done, you throw so many aside that you can't take, they have a very high mortality rate. They get eaten by seagulls and there is a certain size at which a clam has difficulty righting itself and bearing itself and they die in the open air.

What this bill will allow to happen is it will allow us to put into the market a resource that is

marketable but currently unsaleable. What it will not do is affect any local municipalities desire or right to control those flats or have a two inch size if it so desires. It will not affect the conservation of the clam resource. It will greatly affect the income to the industry, the income to the digger and their families. That is what this bill will do.

I don't think that that is unreasonable to provide more money to the people, more revenue to the state and not harm the resource.

For those reasons, I would urge your opposition to the current motion and support of the bill.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Men and Women of the House: I was glad to hear Representative Rice mention the fact that her town went into a conservation plan because when we were doing this study in 1983 and 1984, we had a hearing in Blue Hill and the people from Stonington and Deer Isle came to that hearing and they started a conservation plan. Even though this bill has nothing to do with that, I think they found out that, by going to that hearing and hearing all of the discussion and seeing the two inch clam bill come through, that they made a good move and now they are in the clam business, which they weren't before. They now have ordinances like 42 other towns in the state and the state works with them. They have town participation, they have budgeted monies for it, they have wardens and so forth and we are finally getting a little action in conservation out there and we hope the other 40 or so towns on the coast will do likewise.

As far as the value of the landings, in the five years preceding the two inch clam law, the average landing value was \$8,800,000. I don't think the two inch clam bill did this alone but, in 1985, the take was over \$12 million and in 1986, it was again \$12,303,000 so the two inch clam bill hasn't hurt the value of them. It has, but the number of clams being harvested, has gone down.

One last point, we went to the Waldoboro, Damariscotta area to a shucking house there where a dealer was buying clams and so forth, and they had three large barrels that held at least five bushels of small clams and, in each bushel, there is 17,000 one inch clams (if you can imagine) and these were pushed aside into the trash barrels (this represented close to 200,000 clams) and I asked the owner what he was going to do with them and he said, "They are going to the dump." I said, "Why don't you bring them back to the ocean and put them along the tide area and maybe they will seed because we have a seed program going." He said, "We can't afford to do that." So, even if this were a good bill, I wouldn't go for it because we haven't consulted anyone, we haven't spoken to the biologists and we haven't had a full-blown hearing on this bill. I hope that you will vote with Representative Mitchell "Ought Not to Pass."

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

Representative BEGLEY: Mr. Speaker, Men and Women of the House: In response to some of the things that have been mentioned, I would like to say to some folks who feel that this law has not been in effect long enough, as a member of my community, I was approached two years ago by a group of very dedicated and respected clam diggers in our area and their question to me was, "What can we do about the two inch clam law?" So I had a legislative assistant

look it up and found out that the review was going to be in March of 1988. Their response was, "That is too long to wait, isn't there anything we can do?"

Last year, I did introduce a bill to repeal the two inch clam law at the request of over 130 people in my area. I was told by many of my colleagues that I was premature and we should wait until this year to make a decision. As I have mentioned, it was written into the law of March 1988 review so the time has come to review and the time has come to make a decision.

The Marine Resources Committee did hold three public hearings, as has been mentioned to you, one in Machias, one in Rockland (part of the Fisherman's Forum) and one in Brunswick. I attended two of these hearings and came away completely convinced that the two inch clam law is a marketing and economic measure, not conservation, and that we need to do something about this.

To represent the majority of folks in my area, and I think most of you realize that this is a very big clamming area, I should still be requesting a repeal but am pleased to support the Minority Report from the committee today. This report, as you have heard, is asking for us to reduce the size from two inch to one and a half inch with no tolerance.

I would just like to give you two good reasons why I think this makes sense. One of them I haven't heard mentioned here -- Canada has, as far as I know, a one and a half inch minimum and I think that is a very interesting point for us to consider. The second point refers a little bit to what Representative Scarpino was telling you -- at the Rockland Forum, I was extremely interested in the gentleman named Vaughn Anthony from Massachusetts who works for the National Marine Fisheries Service because he got up and testified at the public hearing in Rockland. One of the points that he pointed out that I found extremely interesting was that the water temperature in Maine is cooler and thus slows down the growth of the clams. He mentioned, for example, that in Massachusetts the water is warmer and therefore a two inch clam law makes more sense.

Another point I would like to make is, in my area, and I don't know exactly why this is and I am sure that it would take a long time to get into all the details, but the growing conditions are different in our midcoast area from some other areas of the state. I was excited when one member of the committee who was on the other side of the report finally conceded that point after going to the hearings and listening. There really is a difference and I have to believe that because I have been hearing it for four years.

Enforcement of the two inch law with a 10 percent tolerance is definitely a problem. A marine warden told me it takes at least 45 minutes to an hour to check a hod of clams for size. As was mentioned here, the 10 percent means the digger is allowed one-tenth of the harvest in the hod to be under two inches. So the one and a half inch with no tolerance should be easier to enforce and not as time consuming as the present law.

I also discussed the one and a half inch idea with the same warden and his response was that he believed some clams under one and a half inches would possibly reseed but most over one and half inches and once the clam flats are turned over, probably do not reseed. This is a point that many clambers have told me, once you turn the flats over, the mortality rate of the unharvested clams, is going to be high. This was brought out last year in the hearing and was brought out by many clambers. What the warden is saying is perhaps you might just as well pick up

those one and half to two inch because they probably are not going to reseed and are probably going to die.

In response to what Representative Crowley said, I can't believe that what he saw in the barrels would have been one and a half inch, I am sure they were smaller than that.

I think this bill is a good compromise to allow the one and a half clam to be harvested and I encourage you to support the Minority Report and vote against the "Ought Not to Pass" Report.

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

Representative ALLEN: Mr. Speaker, Men and Women of the House: I urge you to reject the "Ought Not to Pass" and accept the "Ought to Pass" Report. The reason I do that is because I have consistently stood on the floor of this House to oppose the two inch clam law. The reason I have done that is because I think it is inappropriate for this legislature to make political decisions based on economic impact, especially to the clam diggers in my area. It seems more appropriate to me that we allow the Department of Marine Resources to set the appropriate standards that would set standards for conservation measures rather than have this legislature engage in a debate that primarily benefits some areas of this state to the detriment of others. I guess that is my point here this morning.

The fact that we have a two inch law which sets statewide mandatory minimums to benefit some areas of this state but, in fact, also greatly hurts other areas. It happens to be that those clam diggers in my area are greatly hurt and are being put out of business by this law. It is, in fact, an economic issue that we are discussing here today.

I would urge you to reject the "Ought Not to Pass" and accept the one and a half inch statewide minimum standard. At least it is a statewide minimum standard that all areas of the coast can be subject to. If you have a two inch standard, there are areas in the midcoast area of Maine that cannot possibly reach that for all of the reasons that have been listed for you. It is inappropriate for this legislature to be making economic decisions to the benefit of some clam diggers in this state and the detriment of others.

Mr. Speaker, I would request a roll call.

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

Representative LOOK: Mr. Speaker, Men and Women of the House: My activities with clamming goes back to the 1960's and during that time, I have stayed abreast of what has been going on.

I just want to urge you to retain the two inch clam law. We have different growing capacities along this coast of Maine. As you look at the maps, you will notice that in the Waldoboro area and adjacent areas, you have fingers of inlets, long and narrow, that reach into the state whereas east of the Penobscot and west of this Waldoboro area, you have smoother, more rounded inlets. This makes a difference. You have rocky coastlines on the east, a ledge. The sets in the Waldoboro area are more intense than they are in the other areas and therefore, they grow faster. However, in the eastern areas and the York County areas with the more rounded inlets, the sets are more exposed to the ocean and those sets do not take as efficiently as they do elsewhere. Therefore, we have a problem.

What we heard at the hearings (and let me say here and now, Representative Salisbury and I were the only two members of the committee that attended all three hearings) as a composite of those three hearings was that the fishermen wanted to retain the

two inch clam law. What is happening is that they are saying, "We don't have and we can't find any three inch clams." Of course, you can't find any three inch clams when you don't allow them to grow that long.

I know of an area downeast where you can find clams as big as my hand and this is the way it used to be. But the impact on the markets and the more smaller clams that you can dig, is going to make them less available and eventually, in these areas that do not get the heavy sets nor have the warmer waters where these can grow, you are going to extinguish the resource. So what are we looking at? Are we going to extinguish the resource in one area to the betterment of another? I don't think the people of this state would do that, I don't feel that they would and we are trying to help ourselves downeast. We are trying to grow these clams in a controlled environment, seed them into the flats to enhance the resource for our diggers. This is what we want to be able to do.

Like what Representative Crowley said, the little small clams are coming in and in these shucking houses -- what happens? They go down the scuttle holes. It is a waste of the resource when you allow these people to dig these small clams. Leave them in the flats, let them grow to a good size and sell them. I have seen the cost of clams go from \$8.00 a bushel to what it is now and higher.

I hope that you will support the motion of "Ought Not to Pass."

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

Representative COLES: Mr. Speaker, Men and Women of the House: Two quick points -- last week I got a call from the Chairman of the Harpswell Shellfish Conservation Commission, he is a marine biologist, he makes his living in the shellfish business and he said, "What the heck do you think you are doing?" After about an hour of discussion and explanations, he said, "You know you are right, the two inch law doesn't make any sense after you have explained to me what is going on. I think the one and half inch law with zero tolerance makes a lot more sense."

The other point is that that, although Marine Resources refuses to take an official position, the Commissioner and the head of the warden service have both told me that they believe that there is no value whatsoever in retaining the two inch law. One and a half inch with zero tolerance makes much more sense to them biologically and from a law enforcement point of view.

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

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

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

ROLL CALL NO. 234

YEA - Aliberti, Anderson, Anthony, Armstrong, Bailey, Baker, Bost, Bott, Boutillier, Bragg, Brown, Callahan, Carter, Cashman, Chonko, Clark, H.; Cote, Crowley, Daggett, Davis, Dellert, Dexter, Diamond, Dore, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Glidden, Gould, R. A.; Greenlaw, Gurney,

Gwadosky, Hale, Handy, Harper, Hepburn, Hichborn, Hickey, Higgins, Hillock, Hogle, Holloway, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, O'Gara, Oliver, Paradis, E.; Paradis, P.; Parent, Paul, Pines, Pouliot, Priest, Racine, Rand, Reed, Rice, Richard, Ridley, Rolde, Rotondi, Ruhlin, Salsbury, Seavey, Sheltra, Sherburne, Small, Smith, Stanley, Stevens, A.; Stevens, P.; Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Webster, M.; Wentworth, Whitcomb, Willey, Zirnkilton.

NAY - Allen, Begley, Bickford, Carroll, Clark, M.; Coles, Curran, Erwin, P.; Jackson, Kilkelly, Lacroix, Marsano, Mayo, Norton, Nutting, Perry, Rydell, Scarpino, Simpson, Soucy.

ABSENT - Conley, Duffy, Hanley, Kimball, Nadeau, G. R.; Paradis, J.; Reeves, Warren, Weymouth, The Speaker.

Yes, 120; No, 20; Absent, 10; Vacant, 1; Paired, 0; Excused, 0.

120 having voted in the affirmative and 20 in the negative with 10 being absent and 1 vacant, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 1552) (L.D. 2112) Bill "An Act to Increase Funding of Elderly Legal Services" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-581)

(H.P. 1784) (L.D. 2445) Bill "An Act to Protect Lake Water from Phosphorous Pollution" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-580)

(H.P. 1727) (L.D. 2370) Bill "An Act to Establish Guidelines for Genetic Engineering Experimentation" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-583)

(H.P. 1788) (L.D. 2449) Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1988, and June 30, 1989" (Emergency) Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-584)

(H.P. 1671) (L.D. 2289) Bill "An Act to Prohibit the Establishment of Docking Condominiums on Tidewaters, Lakes and Great Ponds" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-585)

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

PASSED TO BE ENACTED

Emergency Measure

An Act Relating to Games of Chance (S.P. 922) (L.D. 2413) (C. "A" S-361)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 4

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide for the Education of Students Residing in Long-Term Drug Treatment Centers (H.P. 1700) (L.D. 2333) (C. "A" H-538)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Maine Banking Code (H.P. 1827) (L.D. 2503)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide that Places of Public Accommodation Install at Least One Standard Bathroom Stall in Conformance with the Standards of the American National Standards Institute (H.P. 1898) (L.D. 2593)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Create a Demonstration Project to Provide for Ladders of Advancement in the Nursing Profession (H.P. 1906) (L.D. 2603)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

RESOLVE, Authorizing the Commissioner of Administration to Implement the Final Plan for Expenditure of the \$6,000,000 Bond Issue to Identify and Correct Asbestos Problems in State Facilities (S.P. 727) (L.D. 1986)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and 2

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

PASSED TO BE ENACTED
Emergency Measure

RESOLVE, Concerning a Proposed Supreme Judicial Court Facility (H.P. 130) (L.D. 159) (S. "A" S-374; H. "A" H-485 to C. "A" H-481)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 10 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

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. "B" S-362)

An Act to Expand the Membership and Clarify the Role of the Commission on Intergovernmental Relations (S.P. 790) (L.D. 2078) (C. "A" S-354)

An Act to Expand and Clarify the Jurisdiction of the Maine State Pilotage Commission (S.P. 821) (L.D. 2143) (C. "B" S-365)

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

(Off Record Remarks)

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

Reference is made to (S.P. 946) (L.D. 2494) Bill "An Act to Establish the Strategic Training for Accelerated Reemployment Program" (Emergency)

In reference to the action of the House on March 30, whereby it Insisted and Asked for a Second Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative GWADOSKY of Fairfield
Representative CROWLEY of Stockton Springs
Representative WILLEY of Hampden

On motion of Representative Martin of Van Buren, Recessed until five o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

PASSED TO BE ENACTED

An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants (S.P. 975) (L.D. 2589)

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

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: The reason that I set this aside is to request a roll call. Ever since I have been here, I have voted against any restrictions that would be placed on employers that would make an attempt to discover whoever may be under the influence of drugs. I did not want this item to go under the hammer. If it had, I would have been recorded as having in the affirmative.

I don't believe that this is an area that we should get concerned with. I think we should leave it up to the individuals that are out in the field, people who are employers who can observe their employees, then if they feel that they are under the influence of any type of substance, to give them the right to test them. If you do not use drugs, you do not have to worry about a test and that is where I am coming from.

Mr. Speaker, I request a roll call.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 235

YEA - Aliberti, Allen, Anderson, Anthony, Bailey, Baker, Begley, Bickford, Bost, Boutilier, Bragg, Brown, Callahan, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Daggett, Diamond, Duffy, Dutremble, L.; Erwin, P.; Glidden, Gould, R. A.; Gwadosky, Hale, Handy, Hanley, Hepburn, Hickey, Higgins, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Mitchell, Nadeau, G. R.; Nutting, O'Gara, Oliver, Paradis, E.; Paradis, P.; Parent, Paul, Pines, Pouliot, Priest, Rand, Reed, Rice, Richard, Rotondi, Rydell, Salsbury, Scarpino, Simpson, Smith, Soucy, Stanley, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Taylor, Telow, Tracy, Tupper, Vose, Walker, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Armstrong, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Harper, Hillock, Jackson, Look, Marsano, McPherson, Michaud, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Perry, Racine, Ridley, Seavey, Sherburne, Stevens, A.; Strout, B..

ABSENT - Bott, Conley, Dore, Gurney, Hichborn, Holloway, Ketover, Kimball, Mahany, Mills, Nadeau, G. G.; Paradis, J.; Reeves, Rolde, Ruhlin, Sheltra, Small, Thistle, Warren.

Yes, 102; No, 29; Absent, 19; Vacant, 1; Paired, 0; Excused, 0.

102 having voted in the affirmative and 29 in the negative with 19 being absent and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR
Tabled and Assigned

An Act to Provide for Payment of Contributions by Employers Under the Maine State Retirement System (S.P. 977) (L.D. 2595)

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

On motion of Representative Diamond of Bangor, tabled pending passage to be enacted and specially assigned for Tuesday, April 5, 1988.

PASSED TO BE ENACTED

An Act to Require Motor Vehicles to Stay in the Right Lane Except for Passing (S.P. 978) (L.D. 2599)

An Act Relating to Shellfish Sanitation and Monitoring (H.P. 1599) (L.D. 2188) (C. "A" H-541)

An Act to Implement the Recommendations of the Special Commission to Study Teacher Training in the University of Maine System (H.P. 1739) (L.D. 2385) (C. "A" H-539)

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) (H. "A" H-543)

An Act Relating to Coastal Search and Rescue Responsibilities and Creating the Study Commission on Coastal Search and Rescue (S.P. 855) (L.D. 2231) (C. "A" S-367)

An Act Directing the Department of Educational and Cultural Services to Study the Issue of Granting Credit for Fee-Based Driver Education Courses (H.P. 1477) (L.D. 2012) (C. "A" H-549)

An Act to Clarify the Laws Relating to Atlantic Salmon Conservation (H.P. 1567) (L.D. 2134) (C. "A" H-554)

An Act to Enhance and Clarify the Role of the State Board of Education (H.P. 1756) (L.D. 2405) (C. "A" H-550)

An Act to Create the Maine Student Artist Awards Program (H.P. 1773) (L.D. 2426) (S. "A" S-371 to C. "A" H-540)

An Act to Replace the Abandoned Property Law (H.P. 1793) (L.D. 2457) (C. "A" H-551)

An Act to Provide a Mechanism for Insurance for Foster Care and Respite Care (H.P. 1821) (L.D. 2496) (C. "A" H-552)

An Act to Extend the Coyote Night Hunting Season (H.P. 1895) (L.D. 2590)

An Act to Amend the Youth Fisheries and Wildlife Conservation Education Program (H.P. 1896) (L.D. 2591)

An Act to Allow the Propagation and Sale of Certain Deer for Food (H.P. 1897) (L.D. 2592)

An Act Concerning Law Enforcement Education and Training and Funding for Training (H.P. 1899) (L.D. 2594)

An Act to Restrict Smoking in Elementary and Secondary Schools (H.P. 1901) (L.D. 2597)

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

FINALLY PASSED

RESOLVE, Authorizing the Sale of Certain Public Lands (H.P. 1860) (L.D. 2546) (S. "A" S-370)

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on

Bill "An Act to Revise the Charter Commission Law" (H.P. 1636) (L.D. 2235)

Signed:

Senators:

TUTTLE of York
BALDACCI of Penobscot
GOULD of Waldo
BICKFORD of Jay
WENTWORTH of Wells
HUSSEY of Milo
LOOK of Jonesboro
STROUT of Windham

Representatives:

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-582) on same Bill.

Signed:

Representatives:

LACROIX of Oakland
CARROLL of Gray
ROTONDI of Athens
BOUTILIER of Lewiston
ANTHONY of South Portland

Reports were read.

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

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

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I ask you to vote against this motion which would prohibit all but two members of the Charter Commission having had municipal experience. Members elected to the Commission shall not hold other elected offices. Any elected officers may not be officers of the Commission -- this is included in this bill.

I feel that much municipal experience is most important in those attempting to create or alter a charter.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: The current rule, five or more individuals that may want to have a charter change or may be unhappy with the type of municipal government that you have, may request that a charter committee be appointed. In order to do so, they must obtain at least 10 percent of the number of people that voted in the last gubernatorial election. If the municipal officials are not (and I repeat, are not) in favor of what those individuals are requesting to be changed, the municipal officials may load up the charter revision committee by having municipal officials run for the charter revision committee. Undoubtedly, they will be elected because most of these individuals are better known than the average citizen that may have gotten together requesting that a charter revision committee be established.

We do have provisions in the current law that allows municipal officials from effecting a charter revision. All they have to do is publish a notice, have a public hearing and then put it out to referendum, which is a very simple matter.

The other way that a charter can be changed is by having someone initiate a petition and obtain enough signatures to do this.

There was some objection to the original bill because, under current law, the municipal officials may appoint three individuals to the charter revision commission of which one may be a municipal official. The Committee Amendment allows for the appointment of two individuals rather than one and this was to take care of those concerns that individuals had to the original bill.

Incidentally, this was agreed in principle by the Maine Municipal Association. I don't see where this

would not provide the proper expertise that may be required on a charter revision committee. Therefore, I hope that you will support the Minority Report.

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

A vote of the House was taken.

Representative Carroll of Gray requested a roll call.

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

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

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

ROLL CALL NO. 236

YEA - Allen, Anthony, Baker, Bost, Boutillier, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Crowley, Daggett, Diamond, Duffy, Dutremble, L.; Erwin, P.; Gurney, Gwadosky, Handy, Hickey, Hoglund, Holt, Jacques, Joseph, Kilkelly, Lacroix, Lisnik, Macomber, Manning, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Perry, Pouliot, Priest, Racine, Rand, Rolde, Rotondi, Rydell, Sheltra, Simpson, Smith, Stevens, P.; Swazey, Tammaro, Thistle, Tracy, Vose, Walker.

NAY - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Bragg, Callahan, Cote, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Glidden, Gould, R. A.; Greenlaw, Hale, Hanley, Harper, Hepburn, Hichborn, Higgins, Hillock, Hussey, Jackson, Jalbert, LaPointe, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, Matthews, K.; McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Paul, Pines, Reed, Rice, Richard, Ridley, Salsbury, Scarpino, Seavey, Sherburne, Soucy, Stanley, Stevens, A.; Strout, B.; Strout, D.; Tardy, Taylor, Telow, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Brown, Conley, Dore, Holloway, Ketover, Kimball, Mahany, Nadeau, G. G.; Reeves, Ruhlin, Small, Warren, The Speaker.

Yes, 65; No, 72; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

65 having voted in the affirmative and 72 in the negative with 13 being absent and 1 vacant, the Minority "Ought to Pass" Report did not prevail.

Subsequently, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Majority Report of the Committee on State and Local Government on Bill "An Act to Improve Legislative and Public Access to the Agency Rule-making Process" (H.P. 132) (L.D. 161) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish Greater Communication in the Rule-Making Process and to Provide Better Standards for the Adoption of Rules" (H.P. 1912) (L.D. 2611)

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

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Make Changes in the Rule-Making Process" (H.P. 1913) (L.D. 2612) on same Bill.

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

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: I move that the House accept the Majority "Ought to Pass" Report.

What you have before you is a bill that originally came from the last session of the Legislature from a study of events from the Joint Standing Committee on State Government. It looked into the whole process of agency rule-making, as it applies to the general public and you and I as members of the legislature.

The bill is a result actually of three individual bills that appeared before State and Local Government last session. It sought basically to make the rule-making process more responsive to the general public and more responsive to you and I.

The goals in the Majority Report will be done by better communications between state agencies, the legislature and the general public. The Majority Report goes one step further and adds some oversight. There are some major differences between the two bills. One is that, if a rule is promulgated and has major inconsistencies at the public hearing, the Majority Report says that that rule will not be adopted until all people are consulted again. They will have another 15 day waiting period and, from that point on, after more comments are received, the rule can then be adopted.

The Minority Report says, let's adopt the rule, we will just give people 15 more days to talk about it.

A major difference also is that of oversight. Presently and for quite awhile, the Secretary of State's Office has been in charge of providing technical assistance in oversight of the rule-making process. This bill, last June, the final night of the session, was recalled from the desk of the Governor because there was a problem with this section of the bill as far as his staff was concerned. We agreed to recall the bill and, in the time between sessions, an Executive Order was issued to help with the rule-making process. We were hoping for an alternative proposal from the administration and that did not happen, which brings about a major, major difference between the Majority and Minority Report.

The Majority Report says the Secretary of State's Office will continue to do that technical assistance but provide a checklist for all rules that are to be promulgated and they will report to the legislature on or before February 1st on various agency compliance with their rule-making authority and issue that report card to the general standing committees

of the legislature, who have jurisdiction over those agencies. It is something that the Secretary of State's Office should have been doing all along and hasn't. It will provide a staff and a half person for the Secretary of State's Office to do that.

The Minority Report eliminates all that process. No technical assistance, no checklist, no oversight.

Another major change is that of licensing and commodity boards. The Majority Report asks the Commission to look at all those licensing and commodity boards to look at any new proposed rules to make sure that those rules are consistent with the authority, consistent with the legislative intent and consistent with this chapter of rule-making.

At the same time, if they are not, there is no veto power over the rules by the Commissioner -- all we are asking then is to let the legislative joint standing committees know how well the licensing and commodity boards are doing in the rule-making. Last year, they promulgated some 70 rules, 70 rules with no legislative oversight.

It was the majority opinion that we needed legislative oversight that would help the communications process. You and I both know that now we get copies of rules. That will not happen under the Majority Report, you will get an expanded fact sheet, something like a Statement of Fact. Then if you, as an individual legislator, have an interest in that area, you can call the agency or department and get the full rule. It creates a relationship and communication between agencies and departments, executive branch and the legislature and the general public. Then we will know that rules being promulgated are what we intended them to do and don't supercede the authority of those departments.

I would hope that you would join the majority and pass this law so that rule-making will become something that everybody has an understanding of.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: I ask you to vote against this motion, which would require oversight by the Secretary of State's Office. I understand the Secretary of State's Office claims he would need extra space and extra staff and additional funds.

Section two would require new costs to various departments and agencies of state government, the exact nature of which cannot be determined. It is anticipated that some agencies would be able to absolve the cost while other agencies would have significant added costs.

The New Draft removes the oversight from the Secretary of State over the rule-making process of the Executive Branch agencies. In addition, this New Draft removes the review by the Commission of Professional and Financial Regulation of Rules. A preliminary survey of only 16 agencies show that they will incur costs totalling over \$230,000. This does not even include Human Services.

I would ask for a Division, please.

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

73 having voted in the affirmative and 57 in the negative, 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.

On motion of Representative Diamond of Bangor, tabled pending passage to be engrossed and specially assigned for Tuesday, April 5, 1988.

CONSENT CALENDAR

First Day

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

(H.P. 1776) (L.D. 2429) RESOLVE, Establishing the Advisory Committee on Education and Critical Issues for State Decision Making Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-589)

(H.P. 1752) (L.D. 2401) Bill "An Act to Establish a Permit to Operate a Railroad" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-590)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 5, 1988, under the listing of Second Day.

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Establish a System of Corporate Governance to Protect Employees and the Public from Corporate Lawbreakers and to Improve Compliance with Existing Civil and Criminal Laws" (H.P. 1790) (L.D. 2451) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft/New Title

Representative MATTHEWS from the Committee on Aging, Retirement and Veterans on Bill "An Act to Establish the Agent Orange Information Commission" (H.P. 1621) (L.D. 2214) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish the Maine Commission on Agent Orange and Radiation Information" (Emergency) (H.P. 1914) (L.D. 2613)

Report was read and accepted, the New Draft read once and assigned for second reading Tuesday, April 5, 1988.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-586) on Bill "An Act to Amend Property Tax Exemptions" (H.P. 1657) (L.D. 2267)

Signed:

Senators:

TWITCHELL of Oxford

DOW of Kennebec

SEWALL of Lincoln

Representatives:

MAYO of Thomaston

CASHMAN of Old Town

SWAZEY of Bucksport

NADEAU of Saco

DORE of Auburn

DUFFY of Bangor

JACKSON of Harrison

ZIRNKILTON of Mount Desert

WHITCOMB of Waldo

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

Signed:

Representative: SEAVEY of Kennebunkport
Reports were read.

On motion of Representative Cashman of Old Town, the House accepted the Majority "Ought to Pass" Report, the Bill read once.

Committee Amendment "A" (H-586) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, April 5, 1988.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act Enabling Municipalities to Establish Municipal Investment and Land Banks Funded by a Local Option Real Estate Transfer Tax" (H.P. 1762) (L.D. 2415)

Signed:
Senators: TWITCHELL of Oxford
SEWALL of Lincoln
Representatives: JACKSON of Harrison
ZIRNKILTON of Mount Desert
DORE of Auburn
DUFFY of Bangor
NADEAU of Saco

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-587) on same Bill.

Signed:
Senator: DOW of Kennebec
Representatives: CASHMAN of Old Town
WHITCOMB of Waldo
SEAVEY of Kennebunkport
SWAZEY of Bucksport
MAYO of Thomaston

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.
Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Minority "Ought to Pass" Report.

If you think you have seen this issue before, you have, at least two other times. The reason it is back here is because, over the summer, we did a study on growth management that I think most members of the House are familiar with. This bill before you today is a Divided Report and it comes out of that study on growth management and is a recommendation of the majority of the members on that panel.

It is also back in front of us in the form of a bill from the Governor's Office because the Governor's growth management package also includes this recommendation.

I don't think the issue really needs a lot of clarification or debate because it was debated for at least several hours on two separate occasions last year. Just to refresh your memories, what the bill does is allow communities in Maine, by local option, to establish a real estate transfer tax which they can use to fund the purchase of open space and establish a land bank.

The signers of the Minority Report feel that this is an appropriate way by which we can ensure open space and access to public facilities like beaches and lakefronts in towns and cities in the State of Maine that are experiencing very rapid and uncontrolled growth.

I think those arguments are very familiar to members of the House and this House passed this bill last year and I hope that you will reinforce that position and approve the Minority Report today.

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

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

I would like to pose a question to the Minority members -- who will collect the tax?

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

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

Representative CASHMAN: Mr. Speaker, Members of the House: In its present form, the Minority Report would have the tax collected by the municipality.

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

Representative DORE: Mr. Speaker, Men and Women of the House: I am not going to belabor this, the House did vote to pass it last year, I expect the House will do the same thing today. I did want to get up and say that I don't think it is appropriate other than the property tax for it to be local taxes. I think it is the state's responsibility, I think we have a responsibility to provide open space and I think we have a responsibility to pay our way. I don't think we should give that responsibility to the municipalities. I think it is going to create a lot of problems in terms of who grows and how they grow as different communities vote in the tax and other communities do not.

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

Representative JACKSON: Mr. Speaker, Men and Women of the House: As a signer of the Majority Report in opposition to this proposal, I would just like to voice some of my concerns and the reason why I signed it out "Ought Not to Pass."

The gentleman from Old Town is correct, this was a bill as a result of a joint study that was commissioned this summer from the Land Conservation Economic Development Committee.

This differs though from the proposal that the Commission suggested and I think was unanimous out of that committee and it differed because we allowed municipalities through their local option if they opted to go for a local option transfer tax to use these funds above and beyond the purchase of property in their localities for public access. It addressed such things as affordable housing, municipal infrastructure, some of the costs associated by the growth that is going on occurring in these communities throughout the state. That is where my concern comes from.

I am also concerned that we are going to pass this, (and I don't hesitate at all to think this is not going to pass here in the House this evening) but once we do this, we are going to be allowing the various municipalities throughout the state, if they so opt, to exercise this option that is available to them and is going to give them the opportunity to take property which are on the tax rolls currently from the tax rolls and that money to be used for just a specific purpose and not for all the purposes that municipal government addresses. I just felt that it should address some of those other areas such as the infrastructure and some of the other concerns that they have.

I just thought I would pass that on.

Mr. Speaker, when the vote is taken, I would request a Division.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I would just like to lend my support to the statements made by the Chairman of the Committee. This is a local option. I would ask you again to recognize that feature. If the communities who wish to take initiatives on their own certainly

have that ability; those communities and those areas who care not to be involved in those issues certainly don't have to.

I would urge you to approve the motion before us.

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

Representative DUFFY: Mr. Speaker, Men and Women of the House: I voted against this bill because of consistent tax policy. I don't believe this is consistent tax policy. Although the aim is laudable, I certainly don't believe that we should be letting the towns decide their own tax policies. I don't see any reason why next year we can't come back and let the towns (if we pass this) have their own sales tax if they so wish and so vote on. I think we already have one of the highest real estate transfer tax in the country. I don't think it is consistent, I think it opens the door to more local tax options and I think we can have towns competing against each other pretty soon in order to raise money.

I wish you would vote against this bill.

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

Representative ZIRNKILTON: Mr. Speaker, Men and Women of the House: I just want to briefly echo some of the remarks of my colleagues who are the signers of the Majority "Ought Not to Pass" Report and ask you to reject the pending motion and instead accept the Majority "Ought Not to Pass" Report.

My reasons are as follows, we are all concerned about growth management, there is no question about that and we are all certainly aware that in municipalities that face high pressures of growth management, one of the most pressing problems in addition to that that they have is the issue of affordable housing. That is something that we have all talked about. This bill is going to make it more difficult for people to afford houses in areas that have been pressured by tremendous growth.

For example, a real estate transfer tax imposed is not something that you can go ahead and finance with your mortgage, it is an additional up front cost that you must pay at the time of closing. How many in here remember the first time you ever bought a house? Do you remember how hard it was to come up with that down payment? It is not easy, especially in an area where the cost of housing is excessive and that percentage that you must raise is that much higher.

Here we are going to make it more selective in these communities under tremendous growth by making it more difficult for those with less to afford to be in that community by forcing them to come up with a higher down payment.

The Committee had the option to exempt to a certain amount, we had that chance. Nantucket has a real estate transfer tax and they exempt the first \$100,000 from any real estate transfer tax. We had that chance and we didn't do it. Instead, this bill proposes to go ahead and access that fee right from penny number one on whoever is trying to buy a house regardless of how much money they have.

I think for that reason, in addition to some of the others, the bill is just plain unfair, hits those in many ways who can't afford it, it is selective and I frankly don't think it is good policy. If people want to go ahead and acquire areas in an area that is under tremendous pressure, they already have the option to do so. They can have their town meeting, they can assess an amount to the property tax and raise it by everyone going ahead and paying for an area that is going to benefit everybody. Instead the signers of this report want to see a very selective

few pay for what is going to benefit everyone. They want just those who are buying houses to go ahead and pay for the acquisition of space for everyone to enjoy. That is just not fair. If we are all going to use it, we are going to pay for it.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: First of all, I want to clear up two misconceptions. First and foremost, if you will look at Page 2 of the bill, there is a \$77,000 exemption for personal residences. Contrary to what the good gentleman from Mt. Desert, Representative Zirnkilton said, we do not start imposing a tax at the first dollar, it is after the first \$77,000. I just want to make that clear. There is a \$77,000 exemption right in the bill.

Secondly, I heard it stated earlier that this would give Maine the highest real estate transfer tax in the nation. I think that is just the opposite, we are closer to the bottom and this would not push us up that much higher.

I think the most important thing about this bill and it has been called inconsistent tax policy, I don't call it inconsistent, I just call it new tax policy, is that it is enabling. It allows municipalities, through their local legislative bodies, decide whether or not they want to impose this tax or not. This does not impose this upon them, they can choose it if they wish to. It is enabling.

I think about the town of Friendship in my legislative district -- two-thirds of the working waterfront in Friendship used by fishermen that work down there is in one plot of land. That plot of land is going on the market and, believe me ladies and gentlemen, Friendship is a very beautiful town and that coastal property is very, very valuable. The fishermen will not be able to raise enough money through the property taxes to acquire that. They need a little help. All of the citizens of Friendship who want to enjoy the beauty of the ocean need a little help and this transfer tax will be just the thing to help them out.

I would also like to point out that the tax is capped. It is .04 percent, which would be equally divided between the buyer and the seller.

I urge this House to go along and accept the Minority "Ought to Pass" Report.

Mr. Speaker, when the vote is taken, I request the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Stonington, Representative Rice.

Representative RICE: Mr. Speaker, Men and Women of the House: I think the argument of affordable housing can be used the other way. Those of us who live on the coast, we are being bought out of the houses that we currently live in. The land values are escalating at a rate that is beyond comprehension to most of us.

I live in an area that is almost undiscovered and yet, a week ago in the mail, a member of my family received a letter from a real estate developer in Massachusetts. The letter simply stated, "We have examined your property located in the town of Stonington." The piece of property, I might add, is not for sale and I hope that it will not be in the foreseeable future. The letter went on, "We will be calling you shortly regarding the purchase price of your property. If we do not hear from you, we will be calling you." I say to you members of the House, I think that is appalling, I think it is scary and I don't think I want that happening where I am or anywhere else.

Affordable housing where I am is almost out of sight. The house that I built 17 years ago is worth 25 times what it was when I built it. I have no control over that. I think this piece of legislation would give communities such as mine the opportunity to save some small, valuable pieces of shore frontage and island property or inland property that is left and there isn't much left, folks.

I hope you will think about this very seriously. Maybe in your area, it is too late, it is not too late for some of the rest of us. Give our communities a chance. I urge you to support the Minority "Ought to Pass" Report.

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

Representative ZIRNKILTON: Mr. Speaker, Men and Women of the House: Very briefly, let me apologize to Representative Mayo and members of the House, I stand corrected on an issue I had recalled when we were discussing this and voted in committee -- I had remembered that the members of the "Ought to Pass" Report. I thought, had favored no exemption whatsoever. I stand corrected on that.

With regard to Stonington being undiscovered, I guess that depends on who you talk to, it is certainly very well known to everyone in our area and I am sure to summer visitors who love to enjoy our part of the coast. I can only say to you that, during the exact scenario, which the gentle lady has described where values have increased by 25, 30 or more times, it is, in fact, going to be very, very difficult for people to afford those properties. If, in fact, this tax does pass, I hope all of you will go ahead and help somebody come up with that extra closing cost that they will need to buy a house in the area in which they have grown up.

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

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

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

ROLL CALL NO. 237

YEA - Aliberti, Anthony, Baker, Bost, Bott, Boutillier, Brown, Carroll, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Daggett, Dutremble, L.; Erwin, P.; Farnum, Foss, Gould, R. A.; Gurney, Gwadosky, Handy, Hepburn, Hichborn, Hickey, Higgins, Hillock, Hogle, Hogg, Holloway, Holt, Hussey, Jaibert, Joseph, Kilkelly, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, Macomber, Mahany, Manning, Marsano, Mayo, McGowan, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Perry, Pines, Pouliot, Priest, Racine, Rand, Reed, Reeves, Rice, Richard, Rolde, Ruhlman, Rydell, Salisbury, Scarpino, Seavey, Sherburne, Simpson, Smith, Soucy, Stanley, Stevens, A.; Strout, B.; Strout, D.; Swazey, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Webster, M.; Wentworth, Whitcomb, The Speaker.

NAY - Allen, Anderson, Armstrong, Bailey, Begley, Bickford, Bragg, Callahan, Carter, Davis, Dellert, Dexter, Dore, Duffy, Farren, Foster, Garland,

Glidden, Greenlaw, Hale, Hanley, Harper, Jackson, Jacques, Lacroix, MacBride, Martin, H.; Matthews, K.; McHenry, Nadeau, G. R.; Paradis, E.; Paul, Ridley, Rotondi, Sheltra, Stevens, P.; Tamaro, Tardy, Weymouth, Willey, Zirkilton.

ABSENT - Conley, Diamond, Ketover, Kimball, Nadeau, G. G.; Small, Warren.

Yes, 102; No, 41; Absent, 7; Vacant, 1; Paired, 0; Excused, 0.

102 having voted in the affirmative and 41 in the negative with 7 being absent and 1 vacant, the Minority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-587) was read by the Clerk and adopted.

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

CONSENT CALENDAR

First Day

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

(H.P. 1764) (L.D. 2417) Bill "An Act to Make Changes in the Administration of the Maine State Retirement System" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-592)

(H.P. 1690) (L.D. 2319) Bill "An Act to Amend the Farm and Open Space Tax Law" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-593)

(H.P. 1717) (L.D. 2356) Bill "An Act to Require Service Stations to Post the Price of Fuel Sold" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-594)

(H.P. 1584) (L.D. 2162) Bill "An Act to Amend the Regulation of Lobster Parts" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-595)

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-588) on Bill "An Act to Fund a Supplemental Highway Program and to Establish a Program to Fund the Construction of Extraordinary Bridges" (Emergency) (H.P. 1799) (L.D. 2463)

Signed:

Senators:

THERIAULT of Aroostook
CAHILL of Sagadahoc
DOW of Kennebec

Representatives:

POULIOT of Lewiston
SOUCY of Kittery
MACOMBER of South Portland
McPHERSON of Eliot
CALLAHAN of Mechanic Falls
SALSBURY of Bar Harbor
MOHOLLAND of Princeton
MILLS of Bethel

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

Signed:

Representatives:

REEVES of Pittston

STROUT of Corinth

Reports were read.

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

On motion of Representative Gwadosky of Fairfield, was committed to the Joint Standing Committee on Taxation and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

CONSENT CALENDAR

First Day

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

(H.P. 1797) (L.D. 2461) Bill "An Act to Prohibit the Sale of Polystyrene Foam Products Containing Chlorofluorocarbons" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-596)

(H.P. 1731) (L.D. 2374) Bill "An Act to Extend and Strengthen the State's Mandatory Shoreland Zoning Laws" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-597)

(H.P. 1769) (L.D. 2422) RESOLVE, Authorizing the Bureau of Health to Conduct a Time-Trend Study of Leukemia Incidence in Maine Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-598)

(H.P. 1503) (L.D. 2053) Bill "An Act to Allow Greater Departmental Input Under Certificate of Need Provisions" (Emergency) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-599)

(H.P. 1791) (L.D. 2452) Bill "An Act to Abolish the Office of Complaint Justice and Replace it with the Office of Justice of the Peace" (Emergency) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-600)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 5, 1988, under the listing of Second Day.

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

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on RESOLVE, Relating to the Licensure of Foreign-Trained Dentists and the Creation of Specialties within the Dental Profession (S.P. 913) (L.D. 2365)

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

Unanimous Leave to Withdraw

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Regulate the Sale of Potentially Harmful Toys for Children" (S.P. 925) (L.D. 2436)

Report of the Committee on State and Local Government reporting "Leave to Withdraw" on RESOLVE, to Establish the Commission on State Standards for Personal Service Contracts (S.P. 894) (L.D. 2323)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Establish a Position to Develop

Quality Dependent Care Facilities and Sources for the Work Force" (S.P. 867) (L.D. 2262)

Report of the Committee on Transportation reporting "Leave to Withdraw" on Bill "An Act to Clarify and Correct the Motor Vehicle Laws" (S.P. 944) (L.D. 2491)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Concerning Sale or Removal of Homes from Mobile Home Parks and to Encourage Competition in the Mobile Home Park Industry" (S.P. 731) (L.D. 1990)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Providing for a Reason in Notices of Eviction for Cause in Mobile Home Parks" (S.P. 712) (L.D. 1942)

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

Refer to the Committee on Taxation

Report of the Committee on Banking and Insurance on Bill "An Act to Improve Services for Maine's Elderly" (S.P. 943) (L.D. 2490) reporting that it be referred to the Committee on Taxation.

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

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

COMMUNICATIONS

The following Communication: (S.P. 984)
113th Maine Legislature
April 1, 1988

Senator Zachary Matthews
Representative Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
113th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Dr. Katherine O. Musgrave of Orono and Charles F. Davis of South Gouldsboro for appointment to the Maine Milk Commission.

Pursuant to Title 7, M.R.S.A. Section 2952, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Agriculture.

Was Read and Referred to the Committee on Agriculture in concurrence.

The following Communication: (S.P. 985)
113th Maine Legislature
April 1, 1988

Senator Stephen C. Estes
Representative Stephen M. Bost
Chairpersons
Joint Standing Committee on Education
113th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Thomas A. Dukes, Jr. of Temple for appointment as the Student Trustee on the University of Maine, Board of Trustees.

Pursuant to Title 26, M.R.S.A. Section 1022, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Education.

Was Read and Referred to the Committee on Education in concurrence.

The following Communication: (S.P. 986)
113th Maine Legislature
April 1, 1988

Senator Joseph C. Brannigan
Representative Patrick E. Paradis
Chairpersons
Joint Standing Committee on Judiciary
113th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Bruce R. Livingston of Hallowell for appointment as a member of the Workers' Compensation Commission.

Pursuant to Title 39, M.R.S.A. Section 91, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

Reported Pursuant to Public Law

Representative JOSEPH from the Committee on Labor, pursuant to Public Law 1987, Chapter 559, Part B, section 53 ask leave to submit its findings and report that the accompanying Bill "An Act to Amend the Rehabilitation System under the Workers' Compensation Act" (Emergency) (H.P. 1915) (L.D. 2614) be referred to the Joint Standing Committee on Labor for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted.

Under suspension of the rules, without reference to any committee, the Bill was read once and assigned for second reading Tuesday, April 5, 1988.

CONSENT CALENDAR

First Day

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

(H.P. 1801) (L.D. 2465) Bill "An Act to Amend Maine's Domestic Relations Laws" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-601)

(H.P. 642) (L.D. 865) Bill "An Act Relating to the Maine Uniform Transfers to Minors Act" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-602)

(H.P. 1486) (L.D. 2020) Bill "An Act to Amend the Maine Juvenile Code to Expand Notice Provisions" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-603)

(H.P. 1592) (L.D. 2178) Bill "An Act to Ban Disposable Styrofoam Food and Drink Containers from Public Cafeterias" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-604)

(H.P. 1806) (L.D. 2472) Bill "An Act to Clarify the Obligations of Distributors, Dealers and Redemption Centers" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-605)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 5, 1988, 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. 1552) (L.D. 2112) Bill "An Act to Increase Funding of Elderly Legal Services" (C. "A" H-581)

(H.P. 1784) (L.D. 2445) Bill "An Act to Protect Lake Water from Phosphorous Pollution" (C. "A" H-580)

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.

(H.P. 1727) (L.D. 2370) Bill "An Act to Establish Guidelines for Genetic Engineering Experimentation" (C. "A" H-583)

On motion of Representative Gwadosky of Fairfield, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-583) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, April 5, 1988.

(H.P. 1788) (L.D. 2449) Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1988, and June 30, 1989" (Emergency) (C. "A" H-584)

On motion of Representative Gwadosky of Fairfield, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-584) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, April 5, 1988.

(H.P. 1671) (L.D. 2289) Bill "An Act to Prohibit the Establishment of Docking Condominiums on Tidewaters, Lakes and Great Ponds" (C. "A" H-585)

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

PASSED TO BE ENGROSSED

Bill "An Act to Enable the Creation of Watershed Districts" (S.P. 982) (L.D. 2610)

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

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

ORDERS

On motion of Representative MOHOLLAND of Princeton, the following Joint Order: (H.P. 1916)

Ordered, the Senate concurring, that the Joint Standing Committee on Transportation be directed to report out to the House, a bill entitled "AN ACT to Amend the Motor Vehicle Laws and to Allocate Funds to the Division of Motor Vehicles."

Was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

CONSENT CALENDAR

First Day

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

(H.P. 1549) (L.D. 2109) Bill "An Act to Clarify Reporting Requirements under the Campaign Finance Laws" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-607)

(H.P. 1814) (L.D. 2482) RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (Emergency) Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-608)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 5, 1988, under the listing of Second Day.

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

CONSENT CALENDAR

First Day

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

(S.P. 936) (L.D. 2469) Bill "An Act to Promote Greater Workplace Safety" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-396)

(H.P. 1736) (L.D. 2381) Bill "An Act to Improve Supervision of Prison Furloughs" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-609)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 5, 1988, under the listing of Second Day.

(At Ease)

The House was called to order by the Speaker.

ORDERS OF THE DAY
UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders

of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first matter of Unfinished Business:

HOUSE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (H-531) - Committee on Transportation on Bill "An Act to Provide the Capability to Assess the Impact of Overweight Trucks on Maine Highways" (H.P. 1751) (L.D. 2400)

TABLED - March 29, 1988 (Till Later Today) by Representative MOHOLLAND of Princeton.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

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

Representative CARTER: Mr. Speaker, Men and Women of the House: To say that I am disappointed is to put it mildly. A 12 to 1 "Ought Not to Pass" Report on a bill that originated from the Task Force on Railroads - this is not my bill, this is a bill from the Task Force. This is one of seven bills reported out by the Task Force.

Let me say while I am on my feet, I think the Task Force did an excellent job in dealing with a very, very complex issue.

Transportation in the State of Maine is a vital necessity, vital in that we are a rural state, a vast state and we need the best transportation facilities, not just on rails but on roads and in the air and on the sea.

While we were deliberating as the Task Force, it was brought to our attention, time and time again, that one form of transportation was operating at the expense of the other, namely that the truckers were being subsidized, they were ruining the roads, they were always overweight and the Task Force repeatedly questioned members that were appearing before the Task Force on where and how they obtained their information. The closest information that we could substantiate that came from the Transportation Department was from the Weigh-in-Motion Scales. The question was put, "What percentage of vehicles have you found that are overweight on our roads and highways?" The answer came back, "A very small percentage." The follow up question was, "You mean a small percentage of the vehicles on our roads are over the legal limit, correct?" The answer was, "Yes." Follow up question was, "Can you tell us how many of those vehicles were actually operating above their licensed limit?" The answer came back, "We can't." So the data that we were given was flawed.

We still don't know if the truckers in Maine are really seriously violating our overweight laws, if they really are being subsidized at the expense of the rail industry, we haven't been able to determine that yet. That is why L.D. 2400 was reported out by the Transportation Committee.

L.D. 2400, "An Act to Provide the Capability to Assess the Impact of Overweight Trucks on Maine Highways" was patterned after the Minnesota law. The state of Minnesota has enacted a law and they call it the "Relevant Evidence Law" which means that a state trooper or properly designated person can visit an industry or a commercial establishment that weighs vehicles when they come in and knows the weight of the vehicle when it is empty. They can then utilize that information in the courts to prosecute. That law was so successful in Minnesota that they had to pass a moratorium at the end of one year because they just couldn't deal with the violators.

In Maine, as I said before, we are not sure if we really have that type of violation. On the other hand, when you see longitudinal ruts on I-95, it

makes one wonder and it makes one wonder to see how the Transportation Committee reacted to our recommendations on finding adequate data to either dispel or prove this charge that we keep hearing constantly, that the truckers are overweight, and that they are being subsidized at the expense of the railroad.

At this point, I could continue to fight this bill but let me tell you, I have been successful in the past in getting 12 to 1 reports enacted into law. Of course, I was a bit younger but I think if I decided to tackle this issue in earnest, I think I could do it again. Incidentally, that law that was passed on the 12 to 1 report is still on the books.

I am not going to pursue this issue, I think I have made my point, I think it is up to the trucking industry to really show the state and the citizens of this state that they are operating within the law. They should show that they are not continuously violating the overweight laws and that they are not being subsidized at the expense of the railroad industry.

I also have had the opportunity to speak to Commissioner Connors and he has assured me that what we were trying to do with this legislation, which is specifically to gather statistical data, he is going to attempt to do it without this law. I don't have much hope for his success but there is always another session. If you really agree that I am on the right track, then the thing for this body to do would be to overturn this report but if you choose not to overturn it, I will understand.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative MCPHERSON: Mr. Speaker, Men and Women of the House: Let me just quickly if I can explain the Transportation Committee's stand on this bill.

We agree with Representative Carter and his people on the Railroad Task Force. The Transportation Committee, time and time again, has expressed its concern to the State Police about overweight trucks. In fact, members of the committee have spent, not only hours but days, with the State Police weigh personnel out on the roads with them weighing trucks down at the scales in Kittery observing the weighing process. The problem we have today is personnel. We know there are overloaded trucks out there, the only way that we are going to get them is with troopers out there weighing them. At the present time, we have 17 troopers assigned to truck weight with four more coming on just as soon as they are trained.

The thing that we objected to in this bill is that it is going to take two troopers off the road and send them out searching for this information. If they went into a mill, they wouldn't have any better luck than DOT has right now. In fact, they would have even less. DOT, with the Weigh-in-Motion operations that they have, at least can tell whether an axle is overloaded but were you to go into a mill, all you are going to have is a slip that says the last truck or the truck you are looking at, came in with X-number of pounds. You don't know what his gross registration is, what his axle weight is, that is the reason. We just don't want to take those two people off the road. We need more people on the road weighing. We agree with Representative Carter, there is abuse out there. We will keep at it to see that the weight laws are enforced.

I would hope that you would support the committee recommendation.

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

Representative REEVES: Mr. Speaker, Men and Women of the House: I hope that you will defeat the recommendation "Ought Not to Pass" on this bill and vote to pass this legislation, which is modeled after legislation from the State of Minnesota. It gives the authority and legislative approval to the collection of the kind of data that is needed to really prove what kind of impact overweight trucks are having on our roads.

The initial objection to this bill was the cost. The bill in its present form does not have a fiscal note. It would simply give the authority to the State Police and to the Department of Transportation to collect this kind of data.

As this legislature prepares to vote on a five cent increase in the gas tax for repair of our roads which are badly in need of this extra money, it seems particularly appropriate to give a legislative message to the State Police and the Department of Transportation that we want to know what the effect of overweight trucks are on our roads.

I hope that you will vote to pass this bill.

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

A vote of the House was taken.

Representative Reeves requested a roll call.

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

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

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

ROLL CALL NO. 238

YEA - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Boutillier, Bragg, Callahan, Curran, Davis, Dellert, Farnum, Farren, Foss, Foster, Garland, Glidden, Gould, R. A.; Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Hillock, Holloway, Jackson, Jalbert, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Manning, Matthews, K.; McGowan, McHenry, McPherson, McSweeney, Mills, Moholland, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Pines, Pouliot, Reed, Rice, Richard, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Soucy, Stevens, A.; Stevens, P.; Strout, B.; Strout, D.; Tammaro, Telow, Thistle, Tupper, Vose, Walker, Webster, M.; Wentworth, Weymouth, Willey.

NAY - Allen, Anthony, Baker, Bost, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Daggett, Dore, Duffy, Dutremble, L.; Erwin, P.; Gurney, Gwadosky, Hale, Handy, Hickey, Hoglund, Holt, Hussey, Jacques, Joseph, Kilkelly, Lacroix, LaPointe, Mahany, Marsano, Martin, H.; Mayo, Melendy, Michaud, Mitchell, Nadeau, G. R.; Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Perry, Priest, Racine, Rand, Reeves, Ridley, Rolde, Ruhlin, Rydell, Sheltra, Simpson, Smith, Swazey, Tardy, Tracy, The Speaker.

LEGISLATIVE RECORD - SENATE, APRIL 4, 1988

ABSENT - Aliberti, Brown, Conley, Dexter, Diamond, Ketover, Kimball, Nadeau, G. G.; Small, Stanley, Taylor, Warren, Whitcomb, Zirnkilton.

Yes, 75; No, 61; Absent, 14; Vacant, 1; Paired, 0; Excused, 0.

75 having voted in the affirmative and 61 in the negative with 14 being absent and 1 vacant, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

(Off Record Remarks)

On motion of Representative Duffy of Bangor, Adjourned until Tuesday, April 5, 1988, at nine o'clock in the morning.

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
SECOND REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Monday
April 4, 1988

Senate called to Order by the President.

Prayer by Father Christian Roy of St. Bernard's Catholic Church in Rockland.

FATHER ROY: Let us bow our heads and once again recognize that we are in the presence of God and that God is always present to us. Oh God our Father, these recent days have reminded us of what wonders You have made possible. It is good for us to remember that the profit Moses who long ago lead the Isrealites out of oppression into savery. Enable these Senators to ever be sensitive to the oppressions of our times and grant them the wisdom to know how to deal with such situations. It is also good for us to remember that Jesus unjustly and cruelly condemned to death, rose from the dead and proved to us that goodness does prevail over evil. May Your holy spirit oh God enable these Senators to know what is good for the people of Maine and to have the courage to pursue these endeavors. All this we ask, recognizing that You have been with us and have blessed us for many years. Amen.

Reading of the Journal of Thursday, March 31, 1988.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 984
113TH MAINE LEGISLATURE
April 1, 1988

Senator Zachary Matthews
Representative Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
113th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Dr. Katherine O. Musgrave of Orono and Charles F. Davis of South Gouldsboro for appointment to the Maine Milk Commission.

Pursuant to Title 7, M.R.S.A. Section 2952, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Which was READ and referred to the Committee on AGRICULTURE.
Sent down for concurrence.

The Following Communication: S.P. 985
113TH MAINE LEGISLATURE
April 1, 1988

Senator Stephen C. Estes
Representative Stephen M. Bost
Chairpersons