

# 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

On further motion by same Senator, Senate Amendment "A" (S-408) to Committee Amendment "A" (S-398) READ and ADOPTED.

Committee Amendment "A" (H-398) as Amended by Senate Amendment "A" (S-408) thereto, ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.

On motion by Senator BALDACCII of Penobscot, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCII: Thank you Mr. President. I would like to pose a question through the Chair to anyone who may care to answer it in regards to this legislation. Is L.D. 2297 the legislation that is going to be decreasing the blood alcohol level?

THE PRESIDENT: The Senator from Penobscot, Senator Baldacci, has posed a question through the Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. It is my understanding that the legislation in question is not the major legislation contemplated by the good Senator from Penobscot, Senator Baldacci, rather it is simply legislation which would set up a study commission to review the overall effectiveness of Maine's operating-under-the-influence legislation, not only dealing with the efficacy of legislation preventing or discouraging OUI behavior, but also studying the overall effectiveness of Maine's rehabilitation programs for OUI offenders.

Which was PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act Relating to the Maine Uniform Transfers to Minors Act"

H.P. 642 L.D. 865

Tabled - April 5, 1988, by Senator DUTREMBLE of York.

Pending - ADOPTION of Committee Amendment "A" (H-602)

(In Senate, April 5, 1988, Report READ and ACCEPTED, in concurrence. Committee Amendment "A" (H-602) READ.)

(In House, April 5, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-602).)

Committee Amendment "A" (H-602) ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

On motion by Senator PERKINS of Hancock, ADJOURNED until Wednesday, April 6, 1988, at 9:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
59th Legislative Day  
Wednesday, April 6, 1988

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

Prayer by Reverend Douglas Drown, First Congregational Church, Bingham.

The Journal of Tuesday, April 5, 1988, was read and approved.

Quorum call was held.

SENATE PAPERS

Reported Pursuant to the Private and Special Laws

Report of the Advisory Committee on Staff Retention, pursuant to Private and Special Law 1987, Chapter 58 ask leave to submit its findings and report that the accompanying Bill "An Act to Implement the Recommendations of the Advisory Committee on Staff Retention" (S.P. 989) (L.D. 2620) be referred to the Joint Standing Committee on Appropriations and Financial Affairs for public hearing and printed pursuant to Joint Rule 18.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Appropriations and Financial Affairs and ordered printed.

Report was read and accepted and the bill referred to the Committee on Appropriations and Financial Affairs in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Provide Replacement Funding and Capital for the Maine Fire Training and Education Program as offered by the Southern Maine Vocational-Technical Institute" (S.P. 875) (L.D. 2278)

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 Utilities on Bill "An Act to Authorize the Creation of the Freeport Water District" (Emergency) (S.P. 873) (L.D. 2274) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 987) (L.D. 2615)

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

Report was read and accepted, the New Draft read once.

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

Ought to Pass as Amended

Report of the Committee on Legal Affairs reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-398) on Bill "An Act to Enhance the Effectiveness of the Operating-Under-the-Influence Laws" (Emergency) (S.P. 885) (L.D. 2297)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-398) as amended by Senate Amendment "A" (S-408) thereto.

Report was read and accepted, the Bill read once.

Committee Amendment "A" (S-398) was read by the Clerk.

Senate Amendment "A" (S-408) to Committee Amendment "A" (S-398) was read by the Clerk and adopted.

Committee Amendment "A" as amended by Senate Amendment "A" thereto was adopted and the Bill assigned for second reading later in today's session.

Divided Report

Majority Report of the Committee on Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-400) on Bill "An Act to Enable Additional Agencies to Participate under the Finance Authority of Maine Loan Program" (S.P. 909) (L.D. 2364)

Signed:

Senators: ANDREWS of Cumberland  
KANY of Kennebec  
DILLENBACK of Cumberland  
Representatives: STANLEY of Cumberland  
CROWLEY of Stockton Springs  
MELENDY of Rockland  
CARROLL of Gray  
MAHANY of Easton  
STEVENS of Bangor  
BAILEY of Farmington  
HICHBORN of LaGrange  
PRIEST of Brunswick

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

Signed:

Representative: ARMSTRONG of Wilton  
Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-400).

Reports were read.

On motion of Representative Crowley of Stockton Springs, the House accepted the Majority "Ought to Pass" Report, the Bill read once.

Committee Amendment "A" (S-400) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" in concurrence.

Non-Concurrent Matter

Bill "An Act to Make Changes in the Administration of the Maine State Retirement System" (H.P. 1764) (L.D. 2417) which was passed to be engrossed as amended by Committee Amendment "A" (H-592) in the House on April 4, 1988.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-592) as amended by Senate Amendment "A" (S-407) thereto in non-concurrence.

On motion of Representative Hickey of Augusta, the House voted to recede and concur.

Non-Concurrent Matter

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) on which the Minority "Ought to Pass" as amended Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-587) in the House on April 4, 1988.

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

On motion of Representative Mayo of Thomaston, the House voted to adhere.

ORDERS  
SPECIAL SENTIMENT CALENDAR  
Later Today Assigned

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

Paul Soucy, of Brewer, who has been named the Girls' High School Basketball Coach of the Year; (SLS 501)

On motion of Representative Diamond of Bangor, was removed from Special Sentiment Calendar.

Was read.

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

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

Recognizing:

Lewiston and Auburn, the twin cities, an industrial and trading center of south central Maine which continues to grow, to engage in technological innovation, and to produce high quality marketable goods and services, making the "right moves" to maintain stability, ensure the area's quality of life, and foster still greater enterprise; (HLS 1138) by Representative LAPOINTE of Auburn. (Cosponsors: Representative HANDY of Lewiston, Representative COTE of Auburn, Senator GAUVREAU of Androscoggin)

On motion of Representative Lapointe of Auburn, was removed from the Special Sentiment Calendar.

Was read.

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

Representative LAPOINTE: Mr. Speaker, Ladies and Gentlemen of the House: At this time, I would like to recognize the Lewiston/Auburn Chamber of Commerce because it is through their efforts that this day, Lewiston/Auburn Day at the State Capital was put together. It is very, very typical of the energies of the twin cities. These are the energies that have recently helped in our development.

Subsequently, the Order was passed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

REPORTS OF COMMITTEES

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

Representative CARROLL from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1988 (Emergency) (H.P. 1920) (L.D. 2619) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1489)

Report was read and accepted, the Resolve read once.

Under suspensions of the rules, the Resolve was read a second time, passed to be engrossed 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:

(S.P. 711) (L.D. 1941) Bill "An Act to Clarify the Standard of Proof in Prelitigation Screening Panels" (Emergency) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-395)

(S.P. 964) (L.D. 2556) Bill "An Act to Authorize the Maine Self-Insurance Guaranty Association to Act as a Statistical Advisory Organization" (Emergency) Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-397)

(S.P. 841) (L.D. 2186) Bill "An Act Providing for the 1988 Amendments to the Maine Housing Authorities Act" Committee on Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-399)

(S.P. 935) (L.D. 2455) Bill "An Act to Require the Department of Human Services to Reimburse Home Health Agencies for the Reasonable Costs of Recruiting, Training and Retaining Qualified Nursing Staff" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-401)

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

(S.P. 947) (L.D. 2501) Bill "An Act to Clarify and Correct Errors and Omissions and to Improve the Laws Relating to Education" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-402)

On motion of Representative Norton of Winthrop, was removed from the Consent Calendar, First Day.

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

Committee Amendment "A" (S-402) was read by the Clerk.

Representative Norton of Winthrop offered House Amendment "A" (H-622) to Committee Amendment "A" (S-402) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I didn't realize this was coming out so quickly. I didn't realize we had voted out the Errors and Omissions Bill.

If you look at the amendment that is on your desk, you will realize that the amendment to the Errors and Inconsistencies Bill that we have in Education is to basically repeal at least half of the certification act that we passed in 1984. I think that this is not a wise amendment to be putting on an Errors and Inconsistencies Bill which is supposed to be for technical and non-substantive changes in the Education Laws. This amendment has not had a hearing. It has not been brought forth for discussion and debate other than within the committee. I think it would be very unwise for us at this time to pass this amendment disguised in an errors bill. I hope you will defeat the motion.

I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I didn't intend to debate this measure this morning but I am prepared to.

I think we are dealing with a concept in Education surrounding the whole issue of certification. There are certain things that certification can do and certain things we look to that it can't do and we look for it to do those

things. I worked in certification for nine years. We were commended and recognized all over the United States for having a system that would license teachers very responsibly and very effectively and very efficiently.

I want to read just a little bit about the background of certification. The purpose of certification is frequently misunderstood both by educators and the lay public. This misunderstanding is often caused by the perception that certification criteria and the qualities possessed by successful teachers are somehow so closely linked that there is a cause and effect relationship. This simply is not true. The first role of certification is the granting of an initial certificate to an individual who has matriculated to a level of a Bachelor's Degree. This assures parents and the public that an individual has the necessary qualifications to teach. Secondly, the certification process verifies that this teacher has met necessary requirements for licensure.

In the 1930's, the last of the life certificate's were issued to teachers. Now, these were people who had taught in our schools and the state felt that they should give them certificates for the rest of their lives. The last one of those teachers stopped teaching in 1963 but that condition of licensure was never taken from them. I will tell you one thing, I am glad they didn't.

Certification standards were raised at that point in time in the late 1930's for all new teachers entering the field and were applied to all freshmen entering college at that time. They even exempted the people who were matriculating in college from those standards. Those holding all forms of certification including the life certificates were honored or grandfathered. By 1955, most secondary school teachers in this state had college degrees. However, only 20 percent of the elementary school teachers in Maine held college degrees. I was the only teacher in my school, at that time in Medway, Maine, who had a degree teaching in the elementary school.

Once again, between 1958 and 1963, Maine carefully planned and upgraded its certification standards. Once again, all certificates previously issued were honored or grandfathered. At all times, renewal provisions were honored according to the terms in effect at the time the certificates were issued.

In 1978, I made a survey of all junior and senior high school teachers and found that 90 percent were teaching in their subject — major or minor. That data base hasn't even been collected as these changes are being proposed.

For my fourth point, I have a letter here from a person I once hired to teach. She holds a Doctorate now and she teaches in Limestone, Maine. "Dear Mr. Norton: The first hopeful, encouraging, exciting and truly sensible idea, to come out of this whole certification mess is your proposal to go back to the old rules, at least for presently, certifying teachers. If there ever was a case of "fixing it when it ain't broke," this is it. I doubt that problems with public education can be traced to teacher certification and, if they can be, I would like to know what they are and how they have been identified.

This is a bad joke and I hope that the legislature will recognize what you are trying to do. Now I have to ask the permission of my peers, for crying out loud, this is insulting. I know as much as my peers about what courses I should take to upgrade my background. Furthermore, I have to

justify the courses I am taking to them. How does anyone know how to justify a course before he takes it? However, I have solved my recertification problem and I solved it some time ago and I am not tearing my hair out over the confusion that exists. I am taking my college courses as usual. But, if that isn't good enough, I will not recertify or teach in Maine."

I know that person and I have other letters like that. I have the support of every teacher in my system -- that I know of. My phone has not been still for the past several days. My wife was glad when I got home last night because she handed that instrument over to me and said, "I've been on it all evening, I am glad you are now home." I told her, I had not tarried.

I would like to end this by saying one thing, that you have to look at what certification can do and what it can't do. What it can do is give that minimal assurance that I talked about. What it cannot do is make up for good hiring practices, it cannot make up for good supervision, and it cannot make up for staff development carried out in the schools. Don't expect it to do so as the new rules expect.

I ask you to go along with this amendment.

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

Representative RICHARD: Mr. Speaker, I have a question. Is this amendment properly before us on an Errors and Inconsistency Bill?

The SPEAKER: The Chair would advise the gentleman that anything can be placed on an errors bill, including this amendment or the kitchen sink.

The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I would agree with the Speaker that we can't challenge it on germaneness but I think for those of you that have dealt with the Judiciary's Errors and Inconsistencies Bill, you realize that they go over it with a fine-tooth comb and always make sure that there aren't substantive changes that people try to slip in. I think we would be setting a terrible precedent here if we allowed an amendment of this nature, of this magnitude, to be put in an errors bill.

If something like this passes, then I don't think I will ever be able to feel safe to accept the Judiciary's Errors Bill as substantive or anybody else's errors bill. I think you have to have confidence in the committee that they have gone through and weeded out anything that can be considered controversial that should go in on its own merit and not disguised in an errors bill.

I think the fact that the good Representative from Winthrop debated so long and so well on the need for this signifies that this bill, if it is going to be presented to this House, should go through a hearing, should have testimony on both sides and should allow people ample opportunity to hear all the pros and cons. It should also give the state board, who has been working on this for three or four years, a chance to have their comments made on it. But to bring it in at the last minute as an amendment on an errors bill, I just think that is totally wrong.

Any time you have to get up and debate pro's and con's of an amendment or part of an errors bill, I think it clearly does not belong in the Errors and Inconsistencies Bill.

I hope you will again reject the amendment.

The SPEAKER: The Chair would have you take a look at the title of the Bill, "An Act to Clarify and Correct Errors and Omissions and to Improve the Laws

Relating to Education." The Chair would suggest that the Representative's amendment is perfectly proper within this body and that perception of an amendment is in the eyes of the beholder.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I only just want to make this one comment. In case you didn't notice it you just heard from Representative Norton one of the most sincere statements made on the House floor this year. He has talked with us about this, we are not talking about the certification as you normally hear it. I think Representative Norton has a very, very legitimate argument and I think that, in order to get that argument out here, I urge you to support his motion for this amendment.

Certification has been around a long time. We have discussed it from all angles. This is not a perfect idea yet, even among some of us who are supporting it. But it is an item that has to come out and, through his motion, it will. I urge you very sincerely to support this motion for this amendment.

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

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

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

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: I think if we go along with this amendment, we are renegeing on our commitment to the children of the State of Maine.

There is sufficient and compelling evidence that learning, teaching, and administration must improve and must change if we are to respond to the demands placed upon education and into the next century.

It seems to me that what we have to do is to realize that if we pass this amendment, we are subscribing to postponing any real change in the schools of the State of Maine for at least 20 years because most of us who have been in education know that it takes that long to bring about change.

I ask you, in the name of the children of the State of Maine, to reject this amendment and to improve the certification as a whole and not gut the certification requirements by passing the amendment. I ask for you to reject this amendment.

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

Representative CROWLEY: Mr. Speaker, I would like to pose a question to the committee.

In the rules that were promulgated recently for recertifying of teachers in the professional teachers certificate, could someone explain exactly what the Board of Education has come up with for those recertification rules?

The SPEAKER: Representative Crowley of Stockton Springs has posed a question through the Chair to any member of the committee who may respond if they so desire.

The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: Those rules were put together within the last year. I have asked for the

latest version of them because they have been changed many times, just since December 7th. I don't believe that anybody in this House can honestly get up and make any claims that this is going to be the salvation of education in the State of Maine.

Representative Crowley -- I was told that I can get my certificate renewed by taking the equivalent of two courses. I now have 214 credits, that is more than I need, and it's no mark on intelligence because we confuse matriculation and intelligence sometimes. I do think that my current certificate which I have here, which was given to me first in 1955, and which I have proudly held, maintained, and earned part of those 214 credit hours, to keep it up there. I have four certificates, each one of them is good for ten years. If I went ten years without upgrading myself, I wouldn't be standing here today or before children in a classroom.

I am telling you that there is a great similarity between the recertification requirements of the new law and what I already have. However, what I am saying is that certification can't do the job for children. It may do the job of licensing teachers but staff development in the workplace is what I fight for.

As far as gutting any Education Reform Act, I want you to know that the certification law mentioned one thing in terms of certification. It talked about support teams for new teachers. All other that was done with that section of the law was license taken by someone else to do so.

I urge you to go along with this amendment. I speak for the good of children too. I don't mean to demean my good friend, Representative Lawrence, but I don't believe certification can be held accountable to make the improvements that only staff development can and you don't need to link the two of them together. I urge you to still consider what I said and support the amendment.

The SPEAKER: The Chair recognizes the Representative from Camden, Representative Taylor.

Representative TAYLOR: Mr. Speaker, Men and Women of the House: We have a lot of questions from teachers in our area. I have over the past four years. I seem to get more of a sense that they want clarification. Anybody that resists further improving our basic knowledge of either the courses that they want to teach or the classroom area that they want to teach in, I have a very, very difficult time understanding. When I hear that, it makes me nervous as a citizen in the state and I question what that resistance is all about.

As we talk, and I talk more and more to my teachers, there seems to be more that I need to understand and what is expected. The teachers that I represent in my district that are interested in that, when they are clear about what is expected, the good ones I know and have been good over the years and I have dealt with as a parent, did not resent in the slightest way any upgrading of their certificate.

I think we have to be very careful of the argument between resistance and where they think they are going to get the best training. I will be very disappointed if you get those two issues confused because I don't think this is the place to do it.

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

Representative CROWLEY: Mr. Speaker, Men and Women of the House: The reason I asked the question is, I was concerned over the report that I heard or read that there would be 18 credit hours required every five years for teachers in the professional teachers certificate area.

I think we are treating our professional teachers, the group in the middle, like the neglected majority. We talk about these Master Teachers and we keep downgrading our professional teachers.

I attended the hearings in 1985 on this bill on education and I was assuming that we were maintaining that, at least six credit hours of professional study, to recertify. I think that is plenty. If they have to go 18 hours in five years, that is going to bring them to the campus too often.

If they have this kind of scheme going, I think we should vote for this bill and protect those teachers out there. They are good people, they shouldn't be the neglected majority, we should be cheering them on. I think they are professional in what they do and I think the six credit hours are plenty. If they are going to change that or are thinking of it, then I will vote for this amendment.

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

Representative SMALL: Mr. Speaker, Men and Women of the House: I didn't understand Representative Crowley's question earlier and I think I can speak to that point now. It is a very good one.

Right now, the 18 credit hours that you are talking about is, if your major in teaching is mathematics -- I am a high school mathematics teacher and I have always taught mathematics, studied mathematics in college and got my teaching degree and, for some reason, I now wish to teach history and I only took two courses in college in history, I have six credit hours, in order to teach history and continue teaching history, I would have to complete another 12 credits of history. I would have five years to do that because you have a transitional certificate. The minimum 18 hours is only in what you are teaching as a minor so if you are teaching history and you are certified for the first time in history and all you teach is those related courses, then you will only have to continue getting six credit hours in order to fulfill your requirements. If you are a history teacher and you wish to also have a certificate in mathematics, then over five years you are going to have to get an equivalent of a minor in mathematics. It doesn't have to be only through courses, it can be in-service work or other approved programs. But the whole idea is, do we really want someone at the high school level who is a history teacher teaching physics if they haven't at least had six college courses in physics or four college courses and six credits worth in in-service training or some other appropriate training?

I know as a history major, I would not be able to get up and teach high school math. I have six credits of French but I don't believe I would be able to teach high school French. I think it is only appropriate that teachers are qualified in the field that they are teaching. That is what the 18 credits is all about. It is not every five years that you have to get 18 credits. It is only that you have to have a minimum of 18 credits in the areas that you are teaching if they are different than what you are already certified for.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: If, after listening to the discussion for the last few minutes, you feel confused, you are in the same situation that most of the teachers are in this state. I would ask you to think about that when you are voting to, hopefully, support this amendment.

Teachers in my district support Representative Norton's amendment. They support it, not because they are bad teachers and not because they are concerned about needing to improve, but because they are confused as so many of us are.

An example that I used when we met with the Department and State Board of Education to discuss certification was, what happens with a person who is teaching a rural, secondary school and that person is teaching English, Math, and History and has a general certificate? That person might have to get 18 hours in each of those in order to fulfill their transitional certificate. Now the 18 hours does not all have to be course work, maybe only 12 hours for each of those three subjects. Then the support team has the option of saying, the last six hours could be an experience from having taught those three subjects for 15 years or maybe we are not going allow that and you will have to have 18 hours of course work. If you are in a rural area, such as Lincoln County, and it takes you an hour to drive to Portland in order to get your educational courses, then you have the additional burden of going back and forth to Portland. Maybe you have been coaching or maybe you have been working with the drama club and those things have to go by the board for awhile.

I think it is important that we support the teachers in the state that have been teaching for a long time, the teachers who have proven over the years that they have done a good job and that what we need to do is to look at new teachers coming in. Certainly by increasing the standards for teachers coming into the field makes sense. I think we really have to look at supporting teachers that are in the field now and doing the best that we can to say that improvement is important but staff development is the way to do it.

I urge your support of this amendment.

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

Representative TARDY: Mr. Speaker, Men and Women of the House: I have always relied on and had great respect for the good judgment of Representative Norton ever since the day he first hired me to teach school. I can tell you that we have out there a great body of teachers who are confused, discouraged and demoralized. As a parent of four, I can tell you right now that that is not a good situation either.

I would urge that you support this amendment.

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

Representative OLIVER: Mr. Speaker, Men and Women of the House: I serve on the Education Committee and I am honored to serve next to Representative Norton, who is a fine contributor to that committee. As a former teacher and knowing also that it is a very difficult profession and underpaid, I think we all have to realize that the certification has put our teaching profession under great stress.

Last week, I was with my son taking some lessons and I talked to a teacher from South Portland and I asked him a question. I said, "What does certification mean to your school district?" He said, "Even though he was a veteran of seventeen years and would stay with the profession, that three veteran teachers in the Junior High at South Portland, were leaving the profession." So, I think if this effort at certification is to upgrade the teaching profession, it certainly will not upgrade it by losing their veteran teachers.

I support Representative Norton's amendment. I think it will take great stress off the teaching profession and it really is a matter of an honored tradition in our country to support contracts and

these veteran teachers have signed contracts. I think we should honor them.

I would also recommend to this body some other information. Our committee, as of last week, received the final draft on certification so if you can imagine the confusion and the stress on the teachers, I haven't even had time and I know our committee hasn't had time to read the final draft. We haven't discussed the final draft with the board so I think there is great stress, there is great confusion. This amendment helps to ease that stress. It is not a challenge to certification.

I was a former teacher, I certainly agree with certification, it is a means of upgrading the profession but, at the same time, I would be very much afraid of losing veteran teachers because of the stress of certification, so I support Representative Norton's amendment.

The SPEAKER: A roll call has been ordered. The pending question before the House is the adoption of House Amendment "A" (H-622) to Committee Amendment "A" (S-402). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 241

YEA - Aliberti, Allen, Anderson, Anthony, Bailey, Baker, Begley, Bickford, Bragg, Callahan, Carroll, Carter, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Daggett, Dexter, Diamond, Dore, Dutremble, L.; Erwin, P.; Farnum, Farren, Glidden, Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hepburn, Hichborn, Hickey, Hoglund, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Kilkelly, Lacroix, LaPointe, Lisnik, Look, Lord, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mitchell, Moholland, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pouliot, Priest, Racine, Rand, Rice, Ridley, Rolde, Rotondi, Rydell, Scarpino, Sheltra, Sherburne, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, Wentworth, Willey, The Speaker.

NAY - Brown, Davis, Dellert, Foss, Foster, Garland, Greenlaw, Harper, Higgins, Kimball, Lawrence, Lebowitz, MacBride, Marsano, Murphy, T.; Paradis, E.; Pines, Reed, Richard, Salsbury, Seavey, Small, Stanley, Stevens, A.; Strout, B.; Taylor, Webster, M.; Whitcomb.

ABSENT - Armstrong, Bost, Bott, Boutilier, Cashman, Duffy, Hanley, Hillock, Holloway, Ketover, Mills, Reeves, Ruhlin, Weymouth, Zirkilton.

Yes, 107; No, 28; Absent, 15; Vacant, 1; Paired, 0; Excused, 0.

107 having voted in the affirmative and 28 in the negative with 15 being absent and 1 vacant, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading later in today's session.

(H.P. 1678) (L.D. 2307) Bill "An Act to Establish On-Site Day Care at the Capitol Complex" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-625)

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

CONSENT CALENDAR



Second Day

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

(H.P. 1673) (L.D. 2292) RESOLVE, to Reconstitute the Commission to Review the Laws Relating to Registered Maine Guides (Emergency) (C. "A" H-610)

(H.P. 1767) (L.D. 2420) Bill "An Act to Make Changes in the Laws Concerning Licensed Maine Guides and Related Laws" (Emergency) (C. "A" H-611)

(H.P. 1701) (L.D. 2338) Bill "An Act to Give the Commissioner of Transportation Power to Condemn Existing Rail Lines for Transfer to Safe, Reliable and Efficient Rail Operators" (C. "A" H-616)

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

PASSED TO BE ENGROSSED

Bill "An Act Relating to 6-Axle Vehicles Carrying General Commodities" (H.P. 1919) (L.D. 2618)

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

PASSED TO BE ENACTED

An Act to Enhance Enforcement of the Handicapped Parking Laws (S.P. 974) (L.D. 2587) (S. "A" S-389)

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

ORDERS OF THE DAY

UNFINISHED BUSINESS

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

The fourth matter of Unfinished Business was taken up out of order by unanimous consent:

Bill "An Act to Clarify Reporting Requirements under the Campaign Finance Laws" (H.P. 1549) (L.D. 2109)

TABLED - April 5, 1988 (Till Later Today) by Representative MAYO of Thomaston.

PENDING - Adoption of Committee Amendment "A" (H-607).

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

Representative MAYO: Mr. Speaker, a parliamentary inquiry?

Is Committee Amendment "A" germane to the bill?

The SPEAKER: The Chair would advise members of the House that Committee Amendment "A" contains a provision to change the filing deadline for the filing of primary petitions to the Secretary of State; therefore, the Chair will rule that Committee Amendment "A" is not germane.

Representative Mayo of Thomaston offered House Amendment "A" (H-623) and moved its adoption.

House Amendment "A" (H-623) was read by the Clerk and adopted.

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

The fifth matter of Unfinished Business was taken up out of order by unanimous consent:

Bill "An Act to Promote Greater Workplace Safety" (S.P. 936) (L.D. 2469)

TABLED - April 5, 1988 (Till Later Today) by Representative McHENRY of Madawaska.

PENDING - Adoption of Committee Amendment "A" (S-396).

Representative McHenry of Madawaska offered House Amendment "B" (H-620) to Committee Amendment "A" (S-396) and moved its adoption.

House Amendment "B" (H-620) to Committee Amendment "A" (S-396) was read by the Clerk and adopted.

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

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "B" thereto in non-concurrence and sent up for concurrence.

The seventh matter of Unfinished Business was taken up out of order by unanimous consent:

Bill "An Act to Amend the Rehabilitation System under the Workers' Compensation Act" (Emergency) (H.P. 1915) (L.D. 2614)

TABLED - April 5, 1988 (Till Later Today) by Representative BROWN of Gorham.

PENDING - Passage to be Engrossed.

Representative Brown of Gorham offered House Amendment "A" (H-614) and moved its adoption.

House Amendment "A" (H-614) was read by the Clerk and adopted.

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

The eighth matter of Unfinished Business was taken up out of order by unanimous consent:

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

TABLED - April 5, 1988 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Engrossed.

On motion of Representative Tardy of Palmyra, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-583) was adopted.

The same Representative offered House Amendment "A" (H-626) to Committee Amendment "A" (H-583) and moved its adoption.

House Amendment "A" (H-626) to Committee Amendment "A" (H-583) was read by the Clerk and adopted.

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

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

The tenth item of Unfinished Business was taken up out of order by unanimous consent:

Bill "An Act to Enhance Outdoor Recreation Opportunities" (S.P. 889) (L.D. 2301) (C. "A" S-363)

TABLED - April 5, 1988 (Till Later Today) by Representative MITCHELL of Freeport.

PENDING - Adoption of Senate Amendment "B" (S-376) as amended by House Amendment "A" (H-591) thereto.

On motion of Representative Allen of Washington, Senate Amendment "B" (S-376) as amended by House Amendment "A" (H-591) was indefinitely postponed.

On further motion of the same Representative, House Amendment "A" (H-591) to Senate Amendment "B" (S-376) was indefinitely postponed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered adoption of Committee Amendment "A" (S-363).

The same Representative offered House Amendment "A" (H-621) to Committee Amendment "A" (S-363) and moved its adoption.

House Amendment "A" (H-621) to Committee Amendment "A" (S-363) was read by the Clerk.

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

Representative ALLEN: Mr. Speaker, Men and Women of the House: I urge that you accept House Amendment "A" and I will explain it very briefly to you.

Yesterday, there was a great deal of discussion on the House floor regarding this bill. It centered around maintaining an even playing field. House Amendment "A" does that or achieves that by simply removing all of Section 7 from the original bill, which would bring us back to status quo, in other words, as the law exists now. That would, in fact, grant limited liability to those people who allow recreationists to use their land without charging a fee.

On motion of Representative Diamond of Bangor, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and later today assigned.

The eleventh matter of Unfinished Business was taken up out of order by unanimous consent:

An Act to Extend a Sunset Provision in the Civil Service Law (S.P. 980) (L.D. 2605)

TABLED - April 5, 1988 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 2605 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-629) and moved its adoption.

House Amendment "A" (H-629) was read by the Clerk and adopted.

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

The twelfth matter of Unfinished Business was taken up out of order by unanimous consent:

An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years (H.P. 1594) (L.D. 2180) (H. "A" H-559 to H. "A" H-519)

TABLED - April 5, 1988 (Till Later Today) by Representative ERWIN of Rumford.

PENDING - Passage to be Enacted.

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

Representative ERWIN: Mr. Speaker, Men and Women of the House: I move that this bill and all its accompanying papers be indefinitely postponed.

Since we debated this bill on March 23rd, I have had an opportunity to discuss this with the former State Auditor, Bob Norton. I asked him for his assessment of the auditor's working in that department.

He told me that he had had no problems with their work and that he had started an educational training program. He believes that there is no need for this legislation. In addition to that, another person very high up in state government told me the same thing, that there is no need for this legislation.

For these reasons, I ask you to support my motion to indefinitely postpone.

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

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

Representative MAYO: Mr. Speaker, Men and Women of the House: In deference to my good friend from Rumford, Representative Erwin, I feel very deeply that there is a need for this legislation and that is why I sponsored it and brought it to this legislature.

I would ask this House to remember that the bill came from committee on a 12 to 1 report. This House adopted an amendment, which in effect, watered down the bill even further than what was presented to this House.

The bill, in its present form, now affects only six positions within the Department of Audit. Three people that hold those positions have already met the requirements of this bill. One of those positions is vacant so there are only two people that would have to upgrade their standards and meet a certain level of certification so they can properly, technically supervise their subordinates.

This bill is not about supervision or supervisory skills, as I said before, it is about technical skills, the technical skills that I feel are necessary to perform the functions within the Department of Audit.

I would remind this House that when an audit is issued by the Department of Audit, it carries the seal of the State of Maine. That document should be processed and prepared under the highest professional standards possible. That is why I brought this bill to you.

I would urge you to vote against the pending motion.

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

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I also hope that you would vote against this amendment. This has gone through the House for several days and each time we have voted to increase these skills. It would show a great lack of confidence in our state employees to do this. I feel certain that anyone working in the Department of Audit, being given preparatory courses and seven chances in three years to qualify, would have no problem in doing so.

I also feel that it is the present State Auditor's needs and wants we should be considering, not a past Auditor. I hope you will continue to support this L.D. and I also request a roll call.

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

Representative LACROIX: Mr. Speaker, Men and Women of the House: I am not going through the whole thing that we did two weeks ago but everything I said two weeks ago still holds true.

I would just like to reemphasize a couple of the points that I made two weeks ago tonight. There is a system that state employment is guided by and what we are being asked to do is an end-run around the system. If the State Auditor is not aware of what the system is, let me tell you. If he is not satisfied with the present classifications within the Department of Audit, he only need to request reclassification from the Bureau of Human Resources, where all things will be taken into consideration and reevaluation of those positions will be done.

Coming to the legislature and asking us to do the work of management is wrong. We have a policy we usually follow and this is a very dangerous precedent that we will be setting with the passage of this law. What we are saying is, if you don't like the present rules that the system operates

under, don't use the system, come to the legislature and let the legislature do the work of management.

I believe if we hire managers and we pay them, we should push them to their responsibility every time we get a chance. We also hire people within the Bureau of Human Resources whose job it is to evaluate positions within state government and to set them in their proper place. If we don't need this and the legislature is going to take the classifications of job specifications on themselves, why do we pay the Bureau of Human Resources to do that job?

This legislation is unnecessary. We already have what is necessary within the system to do the job that we are being asked to do. I urge you to support the pending motion. We don't need this, this is just the tip of the iceberg. If we pass this law, we will have others coming in.

Last year, we had people coming in from the Department of Labor who wanted all of their appeals people to be attorneys. Fortunately, the committee didn't see fit to do this. This is the very same thing. If the auditor's are not competent to do their job -- work within the system. I resent the fact that the Auditor went back and said that the legislature was saying, "Let's fire them." That is not what I said, that is not what I intend.

If there is incompetence of state employees doing jobs being paid for by taxpayers dollars, it is not going to help us to make them certified public accountants, certified internal auditors or professional accountants. We will pay more for the same service that we are getting now. We will also be interrupting a career ladder for state employees. I believe very strongly in the career ladder that is being set up for state employees. We are lopping off the top two rungs and saying, "Sorry guys, unless you do this, this is where you are going to sit." It is not right.

I appeal to your human nature to look at it in its right perspective and if we do need some readjustments in audit, let them be done properly with the people that we set up to do those jobs. Don't throw it in our laps so you can go back and say, "Geez, the legislature told me to do this, you guys are all going to have to be this or you are out of a job."

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: We have, in fact, debated this issue at some length. There are people who feel very strongly on both sides of this issue.

As you have heard, the fine gentle Representative from Oakland feels very strongly about this issue. She felt very strongly in committee, she felt very strongly on the floor of the House the last two times we have debated this.

I think we have to put this back into perspective and it is not unrelated to an earlier debate this morning. We are talking about job performances and staff development and career ladders, exactly what this bill will do. It will encourage staff development, it will encourage career ladders and it will encourage and enhance and improve job performances.

We are asking those people in those upper echelon areas of the Department of Audit to upgrade their skills, to increase their knowledge so they will be better able to perform their jobs for the State of Maine when they audit all different departments and agencies.

If this is the tip of the iceberg, if we are going to draw analogies, I guess this ship of state can't afford to strike the iceberg and sink because

of somebody who just may not be able to perform their job because they don't have that necessary technical skill.

I would ask this House, once again, to keep the ship of state afloat, stay with their position in the past, and support this legislation.

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

Representative LACROIX: Mr. Speaker, Men and Women of the House: I don't often disagree with the Chair of my committee but let me correct a few things that were just said.

We already in state government and already in the Department of Audit have staff development training going on. I really approve of staff development training, I think it is a very necessary component. The thing that I oppose and oppose very strongly is that staff development is supposed to end up with a few initials behind your name. I see nothing wrong with somebody having initials behind their name but I feel that that is a very restrictive requirement within the system. It is restrictive because you are not going to allow people to use the staff development unless they do it within the context of taking those exams and passing those exams. If that is going to be part of the requirement for the job, let's put it in state requirement, let us not do it in the legislature. Let the Bureau of Human Resources reassess those jobs and if they find that is necessary, let them put it in the classification specification. Let's not let the legislature do it.

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

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

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

Representative ERWIN: Mr. Speaker, Men and Women of the House: I would just like to mention that it would not be the first time that a 12 to 1 vote was turned around. As was mentioned during debate on March 23rd, the Audit and Program Review Committee will be studying these audit departments this year. That committee goes through any department or any agency with a fine-tooth comb. If there is a problem there and we see it, we will come out with a bill to correct it.

I urge you to support my motion to indefinitely postpone this.

The SPEAKER: The pending question before the House is the motion of the Representative from Rumford, Representative Erwin, that L.D. 2180 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 242

YEA - Aliberti, Anderson, Baker, Begley, Carter, Clark, H.; Coles, Conley, Daggett, Dutremble, L.; Erwin, P.; Farren, Gould, R. A.; Gurney, Hale, Hichborn, Hickey, Hoglund, Holloway, Holt, Jackson, Joseph, Lacroix, LaPointe, Mahany, Matthews, K.; McHenry, McSweeney, Melendy, Mitchell, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Norton, Oliver, Paradis, P.; Parent, Paul, Racine, Rand, Rotondi, Salsbury, Scarpino, Sheltra, Simpson, Smith, Stevens, A.; Stevens, P.; Swazey, Tracy, Warren.

NAY - Allen, Anthony, Bailey, Bickford, Bost, Bragg, Brown, Callahan, Carroll, Chonko, Clark, M.; Crowley, Curran, Davis, Dellert, Dexter, Diamond,

Dore, Farnum, Foss, Foster, Garland, Glidden, Greenlaw, Gwadosky, Handy, Harper, Hepburn, Higgins, Hussey, Jalbert, Kilkelly, Kimball, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Manning, Marsano, Martin, H.; Mayo, McGowan, McPherson, Michaud, Murphy, T.; Nicholson, Nutting, Paradis, E.; Paradis, J.; Perry, Pines, Pouliot, Priest, Reed, Rice, Richard, Ridley, Rolde, Rydell, Seavey, Sherburne, Small, Soucy, Stanley, Strout, B.; Strout, D.; Tamaro, Tardy, Taylor, Telow, Thistle, Tupper, Walker, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton, The Speaker.

ABSENT - Armstrong, Bott, Boutillier, Cashman, Cote, Duffy, Hanley, Hillock, Jacques, Ketover, Mills, Moholland, O'Gara, Reeves, Ruhlin, Vose, Weymouth.

Yes, 51; No, 82; Absent, 17; Vacant, 1; Paired, 0; Excused, 0.

51 having voted in the affirmative and 82 in the negative with 17 being absent and 1 vacant, the motion to indefinitely postpone did not prevail.

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

The fifth tabled and today assigned matter was taken up out of order by unanimous consent:

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

TABLED - April 5, 1988 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Hickey of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 2595 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-627) and moved its adoption.

House Amendment "A" (H-627) was read by the Clerk and adopted.

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

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

On motion of Representative Mayo of Thomaston, the House reconsidered its action whereby the House voted to adhere 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).

On further motion of the same Representative, the House voted to insist and asked for a Committee of Conference.

(Off Record Remarks)

On motion of Representative Strout of Corinth, Recessed until five o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Encourage Certain Health Professionals to Practice in Maine" (S.P. 811) (L.D. 2125)

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

Divided Report

Majority Report of the Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (S-405) on Bill "An Act Concerning Membership on the Maine Blueberry Commission" (S.P. 921) (L.D. 2412)

Signed:

Senators:

TWITCHELL of Oxford

BLACK of Cumberland

Representatives:

TARDY of Palmyra

PARENT of Benton

NUTTING of Leeds

BRAGG of Sidney

MAHANY of Easton

SHERBURNE of Dexter

HUSSEY of Milo

GLIDDEN of Houlton

ALIBERTI of Lewiston

PINES of Limestone

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-406) on same Bill.

Signed:

Senator:

MATTHEWS of Kennebec

Came from the Senate with the Majority "Ought to Pass" as Amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-405)

Reports were read.

On motion of Representative Tardy of Palmyra, the House accepted the Majority "Ought to Pass" Report, the Bill read once.

Committee Amendment "A" (S-405) 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 by Committee Amendment "A" in concurrence.

Non-Concurrent Matter

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) on which the Minority "Ought Not to Pass" Report of the Committee on Taxation was read and accepted in the House on April 5, 1988.

Came from the Senate with the Majority "Ought to Pass" as amended Report of the Committee on Taxation read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-588) as amended by Senate Amendment "B" (S-417) thereto in non-concurrence.

On motion of Representative Diamond of Bangor, tabled pending further consideration and specially assigned for Thursday, April 7, 1988.

Non-Concurrent Matter

An Act to Exempt Law Enforcement Personnel from Having to Pay Ferry Tolls (H.P. 1823) (L.D. 2498) which was Passed to be Enacted in the House on April 5, 1988.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S-415) in non-concurrence.

The House voted to recede and concur.

PASSED TO BE ENGROSSED  
WITHOUT REFERENCE TO COMMITTEE

RESOLVE, Creating the Commission to Study Private Ways and Private Roads (Emergency) (H.P. 1922) (L.D. 2622) (Presented by Representative GREENLAW of Standish) (Cosponsors: Representatives TRACY of Rome, PARADIS of Old Town and Senator BLACK of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Committee on Reference of Bills had suggested the Committee on Transportation.)

Under suspension of the rules and without reference to any committee, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

REPORTS OF COMMITTEES

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

Representative BICKFORD from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1988 (Emergency) (H.P. 1921) (L.D. 2621) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1489)

Report was read and accepted, the Resolve read once.

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

CONSENT CALENDAR

First Day

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

(S.P. 937) (L.D. 2470) Bill "An Act Relating to the State Health Insurance Program and the Bureau of State Employee Health" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-403)

(S.P. 760) (L.D. 2023) Bill "An Act to Provide Emergency Shelter Services to Homeless Youth" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-409)

(S.P. 965) (L.D. 2560) RESOLVE, to Appropriate Funds to the AIDS Lodging House, Inc. Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-410)

(H.P. 1588) (L.D. 2172) Bill "An Act Relating to Special Education in Maine Schools" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-630)

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

PASSED TO BE ENGROSSED  
As Amended

Bill "An Act to Enhance the Effectiveness of the Operating-Under-the-Influence Laws" (Emergency) (S.P. 885) (L.D. 2297) (S. "A" S-408 to C. "A" S-398)

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

(Off Record Remarks)

The following items appearing on Supplement No. 2 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:

(H.P. 1562) (L.D. 2129) Bill "An Act to Prohibit the Release of Dioxins in any State Rivers, Streams or Lakes" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-631)

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

SECOND READER

As Amended

Tabled and Assigned

Bill "An Act to Clarify and Correct Errors and Omissions and to Improve the Laws Relating to Education" (S.P. 947) (L.D. 2501) (H. "A" H-622 to C. "A" S-402)

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

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: In light of the fact that the Education Committee today just finally got the final draft of the certification rules that are affected by this measure that we passed today and, as they said, have not had the time to digest all the material nor have people back home had the time to digest the material and in deference to the fact that our House Chairman is not here, I would ask that we would table this one legislative day.

On motion of Representative Murphy of Kennebunk, tabled pending passage to be engrossed and specially assigned for Thursday, April 7, 1988.

The sixth matter of Unfinished Business was taken up out of order by unanimous consent:

Bill "An Act to Establish the Maine Commission on Agent Orange and Radiation Information" (Emergency) (H.P. 1914) (L.D. 2613)

TABLED - April 5, 1988 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Engrossed.

Representative Hickey of Augusta offered House Amendment "B" (H-632) and moved its adoption.

House Amendment "B" (H-632) was read by the Clerk and adopted.

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

The ninth matter of Unfinished Business was taken up out of order by unanimous consent:

An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1988-89 (Emergency) (H.P. 1800) (L.D. 2464) (C. "A" H-563) TABLED - April 5, 1988 (Till Later Today) by Representative DIAMOND of Bangor.  
PENDING - Passage to be Enacted.

On motion of Representative Cashman of Old Town, under suspension of the rules, the House reconsidered its action whereby L.D. 2464 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-563) was adopted.

The same Representative offered House Amendment "A" (H-634) to Committee Amendment "A" (H-563) and moved its adoption.

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

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

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

The tenth matter of Unfinished Business was taken up out of order by unanimous consent:

Bill "An Act to Enhance Outdoor Recreation Opportunities" (S.P. 889) (L.D. 2301) (C. "A" S-363) TABLED - April 5, 1988 (Till Later Today) by Representative MITCHELL of Freeport.

PENDING - Adoption of Senate Amendment "B" (S-376) as amended by House Amendment "A" (H-591) thereto.

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

Representative ALLEN: Mr. Speaker, Men and Women of the House: I would like to attempt to explain my amendment which basically would keep us at a status quo situation. Several years ago, the legislature enacted a policy that said, if you allow people to recreate on your land, you were granted immunity for doing that. When they defined recreation, they defined it in this manner, they said recreational harvesting activities, so this includes recreational and harvesting activities. That means recreational activities conducted out-of-doors including hunting, fishing, trapping, camping, hiking, sightseeing, operational snow traveling and all-terrain vehicles, skiing, hand gliding, boating, sailing, canoeing, rafting, swimming or activities that include harvesting or gathering forest products that shall include entry, use of and passage over premises, in order to pursue these activities.

What the legislature said and what the law currently says is, if you allow people to pursue those activities on your land as a landowner, you are granted immunity from liability. That immunity from liability is affected only in two ways, if you willfully or maliciously fail to guard or warn against a dangerous condition. In other words, you know of a dangerous condition on your property and you fail to properly warn, then you would lose this immunity. You would also lose this immunity under one other situation and that would be, if you charged any type of fee for people to pursue those activities on your land, you would lose that immunity.

The bill as presented to us, without this amendment, would remove that second provision so, if you charged a fee for any of those activities that I have just enumerated, which would be harvesting of forest products or any of those other recreational activities that I stated, you would also be granted

immunity. I think that is a bad idea, I think that is bad policy decision.

By adopting my amendment, you would keep us at a status quo. In other words, the exchange for allowing people to recreate on your land or harvest wood products would be immunity for those people. It currently does not extend to people who charge a fee for that.

I would urge this House to accept that amendment to maintain that policy.

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

Representative HILLOCK: Mr. Speaker, Men and Women of the House: I am against this amendment and I hope that you would go along with me. Earlier today, I was called out of town to gather information on this issue and missed the morning session. It concerns over 350 campgrounds and what happened this morning is my Amendment "A" was stripped off. I would like to explain to you what that amendment did and if you will bear with me and give me a little bit of patience, we can go through this.

Representative Allen was correct, except for one term when she used the word immunity and that may misinform some of us. The original bill gave protection from frivolous suits which is not immunity from suits, there is no immunity from suit -- that was implied by her statement. All it says is, if you charge a fee to have someone use your property as a campsite, my amendment said, if someone sued you and the judge (only if the judge) deemed that suit frivolous, the plaintiff would pay the defendant's court costs. That is all that says.

I drove over 200 miles this morning to get this information from different people. In the last four years, of the 160 campgrounds in the state (there are 350 private campgrounds) but the only ones I could gather information were the 160, 90 percent of their claims over the last four years were frivolous lawsuits settled out of court and a lot of them for less than \$2,000. These lawsuits, I contend to you, probably would have never been brought. Some were petty lawsuits -- broken fingernails, sprained ankles, a black eye where a person was dancing on top of a picnic table drunk, fell down and hit his head on his pop. These seem frivolous to us, I think they are frivolous, but there are lawyers who will write a letter to the insurance company and the insurance company settles.

This bill was brought in with interests from the landowners up north where they are charging for their site rentals. My objection to this bill was simple. They acknowledge there is a liability problem in the campground industry in the State of Maine but only granted a minor relief from frivolous suits to those campsites owned by the large landowners and the paper companies by qualifying their exemption for campsites that did not have running water. Obviously, most reputable campsites in the state do have running water.

I would like to give you a little more information here because we need to qualify all of what we are saying because we are treading new ground, very little new ground, but we are treading new ground. In order to have a level playing field for the small businessmen in the state, there are 350 private campsites in the State of Maine, 15 percent of the campsites available have gone out of business within the last year. That equates that 120,000 vacationers will not have a site rental someday this summer.

Campgrounds in the State of Maine have been neglected for at least eight years that I know of. They compete directly with our National Parks, Acadia

National Park which has the highest site rental in the country for a national park for camping. They compete with the state subsidized state parks, Sebago Lake State Park and Baxter State Park. That has never been an argument with the private campground owners. They realize that it is a necessary service that the State of Maine provide to enhance the recreational opportunities in the state.

They came up here eight years ago and every year since to complain about the insurance crisis. From 1980 to 1984, insurance rates increased 1,000 percent, ten times more than their rate was in 1980. The average rate was \$1,000 in 1980, now it is \$10,000. To these marginal campgrounds, it has caused them to do one of two things -- in 1984, some of you were here and the liability crisis was peaking then, a number of campgrounds in the State of Maine were flatly refused insurance. They gathered together and self-insured. I don't advocate that. They are unsophisticated businessmen but they did self-insure and they formed a company, it is based in Bridgetown, Barbados, only because they were driven to that. They are maintaining this company. 48 percent of it is owned by campgrounds in this state, the remainder is owned by campground owners outside the state, all east of Indiana.

Here is a list of the campgrounds that I talked to today that are going out of business this year or this will be their last year. Some of them are in your district. Ye Old Red Barn in York, Bear Mountain Village in Harrison, both of those are going to commercial condo development. Salmon Point in Bridgton is going to become a municipal beach. Long Lake Campsites in North Bridgton, all their shore frontage is going to housing development. Indian Point in Raymond, housing development. Teddybear Campground in West Turner is going to a new type of camping, you pay \$25,000, ladies and gentlemen, and they will give you a \$5,000 trailer and lifetime camping privileges. Sunshine Shores in Perry, Maine, who has some of the prime oceanfront property in the State of Maine, is now being sold off for oceanfront lots. Natural High Campground in Lebanon, Maine is going to condo camping where no overnight campers will be allowed. You must sign a contract and pay up front \$9,000 to get into that campground. Two of these are really close to me, (I passed these out today) if you look at the picture on the back, you will see a picture of Point Sebago. Point Sebago is one of the largest campgrounds in the State of Maine, financed by FAME. This campground is in the process of converting to a condo-golf course development. This will be the last year that campsites will be on this pristine shore. Another campground on Sebago Lake. Sebago Lake Basin Campground, this campground has been in the Manchester family since 1754. In 1754, it was granted to Colonel Manchester for his work in the French and Indian War, one of the longest standing properties in the State of Maine, this will be the last year of ownership for the Manchester family. This land will be going. It has been a campground for 15 years in order to pay the high taxes in North Windham, (a commercial area) and Fran Manchester has decided that she can no longer keep this property due to the high cost of operating. The major cost is liability insurance.

For the last four years that I have been here, almost everybody is in agreement that we should have economical recreational opportunities for the common man in the State of Maine. In this book, you will see 160 of the 350 privately-owned campgrounds in the State of Maine. These provide economical recreation for people. How can I say to you that the prime pristine areas are being turned over to resort areas

like the Samoset? Are these areas for the common mill worker from Jay to go to? I certainly think not. We are driving them to that. This does not cost us any money here.

The term immunity from suing is a misnomer. That law pertains to all people who own land now that do not charge for people for its use. This was only before us because the paper companies are renting campsites in northern Maine and they want this same protection when they charge a fee for site rental as they do when they don't charge a fee.

I contend to you that we should have an equal playing field here and extend this to an industry, a small industry that makes up a major part of our recreational accommodations, and present an equal playing field. These are very small companies, some of them with gross incomes of under \$100,000, net income of less than \$20,000 a year and they just want to keep their land. In most cases, the land has been passed down through generations and it is prime property on our oceans, next to our mountains, next to our lakes, and we are going to lose that. Where is it going to go? It is pretty easy to see from the list I just presented you.

Now we are in a very difficult situation, my amendment was stripped off this morning under the hammer and no one stopped it. Well, those things happen, I understand that. But I asked someone here who I met in the hall and we talked about how difficult politics are and all he said was, "Jerry, that's baseball." Well, we are in the ninth inning here and I ask one person who is concerned about the environment in the State of Maine to table this bill for one legislative day so we can treat small business as fairly as we treat the large businesses in the state.

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

Representative ALLEN: Mr. Speaker, Men and Women of the House: The remarks that I have made regarding my amendment addressed the bill in its present posture and that is the bill as it came out of committee. I am presenting House Amendment "A" in an attempt to remove all of Section 7. Section 7 goes way beyond any discussion of frivolous suits. Remember that the courts are already empowered to grant awards for people who bring frivolous suits. In fact, when they have brought one, they can be charged with all the court costs associated with that.

Please remember that when we are talking about immunity, we are talking about extending immunity to people who charge for people to recreate on their land at the current status of those of us who don't charge but this bill extends it to those people who would charge.

But, it goes one step beyond that, it also says that if I bring an action against a landowner and I am unsuccessful -- let's say that I charged that he failed to warn me appropriately about a hazard on his land and I fail to make my case in court, right now as a landowner who doesn't charge for access, the court shall without any leeway shall charge me, the person who brought suit, the cost of bringing that suit.

This bill, in its present posture without my amendment, would also say to a person who brought suit against a facility (such as a ski facility) that you would have to pay the court cost for bringing suit against that facility if you lost.

We are not talking strictly frivolous suits here, we are talking about all suits and, if you are on the losing end of that, (shall, without exception) the court would charge you for the cost associated with having had your day in court.

I would urge you to accept my amendment, it maintains the law as it has been since 1979. If immunity is, in fact, an issue for those recreationists in the state, I am talking about all recreationists, anyone who charges money to allow recreation on their land or on their facility, if that is truly a problem for the small campground owners, for the large ski industry, for the white water rafting industry, for the snowmobiles, for those people to bring a bill to this legislature to have a proper hearing before the Judiciary Committee to treat all businesses the same, who charge for recreational activities on their land, if you are going to do that, I suppose we really ought to look at the whole question of why treat the recreational industry any differently than we treat other industries.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: A lot of you have asked why I withdrew my motion the other day and that is because this issue had become so convoluted and ridiculous that it just didn't seem to have any point to it.

Let me give you a background on how it got here. The Outdoor Recreation Commission was established and when we started meeting with the representatives of the large landowners that take up 10 million acres of the wild lands that we are talking about, one of the questions we posed to them was, what is one of your problems and what can we do to encourage you to keep your lands open and, those of you who charge fees, keep them reasonable? Their answer was that limited liability that was given to someone who allowed the use of their land for free (as was established under the Maine Snowmobile Trail Association to encourage landowners to get involved) and would be extended to those whether they charged an access or road fees to get on their lands or not. The Commission haggled that one over and the majority of the Commission agreed that, as long as the fees were kept reasonable, that that limited liability provision be put into our recommendations.

As Representative Allen said, it was not unanimous. This dealt with landowners who had campsites as defined by the Department of Human Services which means a privy, a fire ring (for those of you who are not familiar with that, it is a ring of rocks that's used to keep your fire contained) and a picnic table. That is not to be confused with a facility that offers a video room, playground, softball, basketball, store, snackbar, laundry facilities, hot showers, wood, ice, meter propane, 3-way hookups, dumping stations, all sites with picnic tables and fireplaces, a private 30 acre lake with one mile of sandy beach, swimming, boat rentals, fishing, lakefront sites available -- only minutes away from excellent restaurants, oceans beaches, amusement parks, Old Orchard Beach, Casco Bay, Portland's Old Port -- I don't need to go any further. The difference was, we wanted to make it very narrow to encourage the owners of those 10 million acres with less than 10 owners, to keep their lands open to the greatest degree and keep their fees reasonable.

We may have been flawed in our reasoning but that is the reason we did it. What happened here yesterday is that we went from campsite to campgrounds. The difference is you are talking about \$2 and \$3 for a campsite versus \$12 to \$15 for a campground. I think you would have to go a long way to say this is a primitive campsite where you are

expected to carry most of your stuff in and carry it out when you are done.

Now this House chose to go along and do something that the Judiciary Committee, I guess, didn't do in their Tort Reform and that was to grant this immunity to everyone which, in our opinion, has no real -- other than the fact that they are facing the same liability policy we all are. Some of my directors' liability has gone from \$500 to \$5,000 at the Waterville Elks Lodge. I mean, should we exempt all the Elks Lodge's in the state from the same requirements that the liquor liability has caused the directors to have this new liability? I wish we would, it would save us \$4,300 a year.

Since this House voted to go with this ridiculous amendment that really went crazy, it flies right into the face of what those of on the Commission hoped would occur, and that would be to encourage those 10 million acres of wild lands of primitive areas to get them to keep those areas open.

I am going to go along with Representative Allen's amendment because I think, in the long run, what will happen is that the companies will have to make a decision whether they want to charge fees, shut the lands off or open them up so everyone could go in free, and get this limited liability. I think most of them are going to end up saying, "Sure, you can come on and the fee will be based on what our liability costs are to have you here." I think you will be hearing from your constituents on the difference of what those charges will be, based on \$2 to \$4.

The way the bill was with this campground, when we were dealing campsites, it makes absolutely no sense to me and I can't support it. I plan on supporting Representative Allen's amendment and I will tell the large landowners that I did my best, I failed, and they will do what they have to do.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I think a lot of us are totally lost. At least my seatmates are totally lost about what is happening here. I think Representative Jacques gave you a good review of what happened in the Recreation Commission. There was a healthy debate that transpired in that Commission about liability. I sided with the Minority, we didn't win.

I think the question was asked about campsites and campgrounds. We are dealing with campsites, not campgrounds.

I would like to pose a question through the Chair to the author of the amendment.

If I charge a fee for people to use my property, will this exempt me from liability?

The SPEAKER: The Representative from Millinocket, Representative Clark, has posed a question through the Chair to the Representative from Washington, Representative Allen, who may respond if she so desires.

The Chair recognizes that Representative.

Representative ALLEN: Mr. Speaker, Ladies and Gentlemen of the House: Yes, according to Maine law, in Title 14, Subsection 159a, sub 4b, you lose your immunity when you charge a fee for people to cross your land recreating in the areas previously mentioned. If you charge a fee, regardless of whether Herbie Clark, landowner, or Great Northern Paper, landowner, right now you are all charged the same. Great Northern is granted the same immunity as Herbie Clark is and the only time those circumstances would change is, if you willfully and maliciously failed to warn somebody of a hazard on your property (like you installed some kind of live trap that would



trap a person as soon as they hit your property or things like that.) That changes the rules. What also changes the rules is if you charge a fee to go on that land and that is current law and that is what my amendment attempts to maintain.

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

Representative CLARK: Mr. Speaker, I would like to pose another question through the Chair to the sponsor.

How will this affect the Maine Snowmobile Association that does a lot of their trails throughout the State of Maine? How will this affect them and their liability with these people on this land?

The SPEAKER: The Representative from Millinocket, Representative Clark, has posed an additional question to the Representative from Washington, Representative Allen, who may respond if she so desires.

The Chair recognizes that Representative.

Representative ALLEN: Mr. Speaker, Men and Women of the House: This bill, this amendment, all these things, one way or the other, does not affect the snowmobilers in that, when he or she is crossing (again I use) Herbie Clark's land and Herbie is not charging an access fee, then if that snowmobiler is injured as he or she crosses the land, you are still immuned. He may bring suit but you are immuned unless you put a live trap in. The difference would be, if he or she crossed land where somebody charges a fee for access, then that person charging a fee for access, would no longer be immuned and he would have a better chance of winning his case in court.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, I would like to pose a question through the Chair to Representative Allen from Washington.

My question is this, if your amendment is defeated, does the bill go back to its original posture?

The SPEAKER: The Representative from York, Representative Rolde, has posed a question through the Chair to the Representative from Washington, Representative Allen, who may respond if she so desires.

The Chair recognizes that Representative.

Representative ALLEN: Mr. Speaker, Men and Women of the House: If my amendment is defeated, the bill goes back to the original posture of the bill which means that this House will be saying that we are granting immunity to all people who allow recreational and harvesting activities on their land, regardless of whether they charge a fee or not.

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

Representative HILLOCK: Mr. Speaker, Men and Women of the House: This is not a new area, we dealt with the liability crisis about ten years ago. It dealt with the large recreational industry, the ski industry. This body agreed that there was a liability crisis in the ski industry. They are immuned. It is not like a defense against frivolous suits, they are immuned from liability going down the hill. They are only liable for getting the skiers up the hill. This was driven by the skyrocketing liability costs that they had at that time, about 10 years ago.

I say that this is the same type of case for the campground owners in the state. They just have less political clout. They are a very small Mom and Pop operation.

I share the concern that Representative Jacques has about the cost of camping. I think you will find that camping in the north woods is about \$6, which was about the average cost of a campsite in 1980. Because nothing has been done by this legislature since then, liability costs have gone uncontrolled. No one was willing to take the lead. Perhaps if we had done something then, we could control liability now. The average cost of camping has gone up almost three times since 1980 -- is that fair? Is that inflation? I don't know, I don't think so.

Today, with great effort and expense, I contacted the insurance company that insures two-thirds of the campgrounds in the State of Maine. After dealing with insurance companies all the way through the demutualization of Union Mutual, which meant that I got to know a few of those people, I never really had much affection toward them because insurance companies always win. They can keep jacking the rates up. It is an oligopolistic market, they control it, they decide what the rates are.

This company that is self-insured headquartered in Barbados told me that the directors are meeting the 24th of April and they said they were so excited that they would receive some sort of relief from Maine campground owners that they pledged to make, immediately, all renewals of insurance for Maine campground owners. They would reduce this, arbitrarily, by 10 percent -- what guarantee is there that they are going to do this? The guarantee is that the people who follow me next year who don't see this 10 percent can repeal this law immediately. Do we take a chance on a small group that is dying out, that is resulting in our land being taken away from the common Maine person who may never be able to go to Point Sebago again? We have to consider this.

We talk about, this was not in committee and we weren't discussing liability for the campground owners -- I brought this issue up two years ago on behalf of the campground owners in my Tort Reform package. We all know how that went.

We had enough partisanship here last night to do a whole session and I don't mean this as being partisan but the Tort Reform Committee did not allow one minority member to participate. Perhaps if they had, the sincerity of that one member, whoever it might have been, may have presented a balanced presentation. Sure, the lobbyists were there -- you know who they are representing. The Maine campground owners can't afford a lobbyist.

November 6, 1984, when I terminated all my affiliation with Wassamki Spring Campground, that campground has been developed over 20 years. As a kid in high school, I helped start that campground with an axe and a bucksaw and dug ditches and now it has 200 sites that have water and electricity. No money was made off that campground for 15 years, it was all put back in, which is typical of all the campgrounds in the state. They were built by families for security in retirement. These people are independent and they want to stay independent, so they come and cry to us. Because they are unorganized and not wealthy, we turn our backs on them.

Yes, this is unorthodox how this came to be today. It probably never would have come up if it had gone through the Judiciary or Legal Affairs. I appreciate Representative Jacques -- at least he is dealing with the issue and acknowledging that the liability crisis exists and is true. There is a crisis and there is a liability problem of the north woods. They open up their woods to us, they charge a modest fee but now things have changed. Anybody can go now and put a frivolous suit on them.

Like I mentioned before, 90 percent of the suits in the past four years on Maine campground owners were frivolous and a lot of them amounted to this -- one person going and complaining to his lawyer friend, "Will you please write a letter to the insurance company, I sprained my ankle sliding into third base or I chipped my tooth when I tripped over a log, a bee stung me." Insurance companies have turned around and acknowledged those letters and settled, the lawyer takes a third, the plaintiff makes out okay and the insurance companies says, "Wow, with the average cost of defending a suit in the State of Maine costing in excess of \$35,000, I got off easy so I am passing it on to the premium payer." They have done that, we have let them do it. Where are we going to take a stand? Let's face the problem.

Very seldom do we have a chance to do something like this. We have not done one thing in this legislature to curb the liability crisis. This is the time we could do it. The mechanism is here. It is a small step.

I have talked to legislators in the lobby and they understand that there is a problem but they don't really know how to deal with it. This is the way to deal with it. It deals with it in protection from frivolous suits, not immunity. Again I say, shouldn't a person who is deemed by the judge to have a frivolous suit -- isn't it fair that they pay the costs of the defendant, the innocent person deemed by the judge? Isn't it fair? What if you were a victim of that suit? How would you feel? Again, how would you feel if you did not have insurance and you couldn't buy insurance because the legislature did nothing for eight years? How would you feel? How would you feel if your children's higher education was in jeopardy because of a suit -- you didn't have money to defend yourself because you couldn't afford insurance because of what we have done up here? I tell you, ladies and gentlemen, because of the 160 campsites that are insured, I have no way of knowing the balance of those 350 campgrounds in the State of Maine -- do they have insurance? Because of negligence? Because they can't afford insurance? Because it is not even there? Is that fair to them? Even more, is it fair to vacationers who come by the millions into the state every summer to go to half of the private campgrounds and I am not sure that they are insured at all. Is that fair? Is that good policy? Is it good public policy to take away the pristine areas that are privately owned in this state, that individual landowners who sacrifice, are working them, who produce money by making them campgrounds?

You just saw a list, I supplied each of you with a book -- please call and ask them why they are selling.

The basic premise that operates and drives everything up here is opportunity presented or denied. People will react positively or negatively to that and, boy, we present great opportunities to sue and I think it is time we look at regulating some of that opportunity, to be responsible when you sue somebody. If you have a suit, a lawyer is going to take it if it has credibility. Now a lawyer is going to take it anyway because he knows that the fast buck is there. Is it the lawyers' fault? No, but I would go for it if it were my profession.

Is it the insurance companies fault? They are in business to make money and they are in one of the businesses where we guarantee that they will make money. What are we going to do about it, ladies and gentlemen? Do I see one person here that will table this so we can find some way to get it back where it

was this morning? I am not asking anyone in my party to table it, I am asking somebody in the other party to table it, to work between the two parties.

We have cooperation from the campground owners who are pleading with us, we have an insurance company that I would like to put their feet to the fire with the statement that they made today. That insurance company is owned by Maine businessmen who formed it. They had to go outside of the state because of the insurance regulations and out of crisis. Where is it?

I will sit down now, I have taken enough of your time. I thought yesterday would be my last time speaking, I hope this one will be.

The SPEAKER: The Chair recognizes the Representative from Woodland, Representative Anderson.

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

If snowmobilers do pay for riding on leased land -- what effect will that have?

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

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I am not entirely sure I understood the question. As far as snowmobilers are concerned, you are talking about snowmobilers who lease land so they are considered lessees. The current law says that, as a lessee, you allow me as a snowmobiler to use your trails without charging me a fee, you are immuned from liability. That is what my amendment attempts to maintain. It intends to maintain current law. The current law says that, if you as a lessee, charged me as a snowmobiler to cross your land, you would lose that immunity because you have charged a fee to do that.

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

Representative SMITH: Mr. Speaker, Men and Women of the House: The fact that Representative Hillock was not here this morning and because of fairness, I move that this be tabled for one legislative day.

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

Representative MURPHY: Mr. Speaker, I move this item be tabled for one legislative day.

Representative Allen of Washington requested a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Kennebunk, Representative Murphy, that this item be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

58 having voted in the affirmative and 38 in the negative, the motion did prevail.

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(At Ease)

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The House was called to order by the Speaker.

The first Tabled and Today assigned matter was taken up out of order by unanimous consent:

An Act Concerning the Regulation of Welders (H.P. 1910) (L.D. 2607)  
 TABLED - April 5, 1988 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

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

The second Tabled and Today assigned matter was taken up out of order by unanimous consent:

An Act to Make Certain Statutory Changes to Facilitate District Court Judicial Administration (H.P. 1555) (L.D. 2115) (C. "A" H-567)

TABLED - April 5, 1988 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

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

The third Tabled and Today assigned matter was taken up out of order by unanimous consent:

An Act to Strengthen Enforcement of Marine Resources and Boating Safety Laws (H.P. 1463) (L.D. 1974) (C. "A" H-571)

TABLED - April 5, 1988 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

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

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 first item of Unfinished Business was taken up out of order by unanimous consent:

Bill "An Act to Revise the Energy Building Standards Act" (S.P. 93) (L.D. 247)

- In Senate, Majority "Ought to Pass" in New Draft Report of the Committee on Energy and Natural Resources read and accepted and the New Draft (S.P. 958) (L.D. 2539) passed to be engrossed as amended by Senate Amendment "B" (S-352) in non-concurrence.

- In House, House Adhered to its former action whereby the Bill and accompanying papers were indefinitely postponed on March 30, 1988.

PENDING - Motion of Representative DEXTER of Kingfield to Reconsider.

On motion of Representative Diamond of Bangor, retabled pending the motion of Representative Dexter of Kingfield to reconsider and specially assigned for Thursday, April 7, 1988.

The second matter of Unfinished Business was taken up out of order by unanimous consent:

An Act to Recodify the Laws on Municipalities and Counties (H.P. 1855) (L.D. 2538)

TABLED - March 31, 1988 by Representative CARROLL of Gray.

PENDING - Passage to be Enacted.

On motion of Representative Diamond of Bangor, retabled pending passage to be enacted and specially assigned for Friday, April 8, 1988.

The third matter of Unfinished Business was taken up out of order by unanimous consent:

SENATE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" - Committee on Taxation on Bill "An Act Concerning Access Fees" (S.P. 297) (L.D. 847)

- In Senate, Minority "Ought to Pass" Report of the Committee on Taxation read and accepted and the Bill passed to be engrossed.

TABLED - April 4, 1988 (Till Later Today) by Representative CASHMAN of Old Town.

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

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: This bill has the intent of removing from the Tree Growth Tax Program any land on which access fees are being charged. Obviously, the concern is that there is a great deal of land in the state now that has heretofore been open to the public for recreational use that landowners are now charging access fees for that privilege.

I think the objections to the Majority Report are that you are linking together the Tree Growth Tax Program with a recreational issue. The reason that this state chose to establish a Tree Growth Tax Law had nothing to do with recreation. The law was established in order to encourage proper land management and in order to encourage tree growth. That is where it gets its name. It has nothing to do with open access to recreation.

The signers of the Majority Report feel that it is a poor linkage to establish. If the concern is on recreation use, perhaps it should be addressed in other ways and we have had other bills in here this very session to address that situation. Linking recreational access fees to Tree Growth is a poor policy. Therefore, I would encourage this House to accept the Majority "Ought Not to Pass" Report.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope you don't go along with the Majority Report and give us a chance with the Minority Report in order to pass this bill as it did in the other body.

I have a few remarks that I want to make and I will make them very brief. Just try to sit back in your seat, I know it's late in the evening, but try to relax and close your eyes and envision what is transpiring with all this land that is owned by some of these individuals. Take an area where I live, we have about 2 million acres of land, go up from my back yard to some of this area and, in all my life of 40 years, I have always had free access of this land. All of a sudden, there is a gate up there. I want to be on the Record right now that I am not opposed to any gate or any fees nor do the group that I represent oppose any fees. We have no qualms with charging fees for camp places to use but I do have a big problem with charging access fees on their roads. That is one reason why this bill is here before us today.

The bill says, "This bill provides that any person charging access fees for use of their lands should not receive Tree Growth for any relief." That is what we are asking for. If you look on your desks, there was a paper passed out a little earlier from the Millinocket Fin and Feather Club and there is a little remark on it. It hits right to the point. "What are you willing to pay for your grandchildren to be able to use this land?" Now you are talking about land where you want to hunt, fish, pick berries, fiddle-heading, how easy is it going to be able to get to it? I grant you that this may not be the way to go after some of these people but it might be a way to show them that we have a concern with what is happening out there to these lands.

When you vote today, I hope you turn down the Majority Report and give the Minority Report a chance because I understand there may be an amendment offered later so when the vote is taken, Mr. Speaker, I would request a roll call.

At this point, the Speaker appointed Representative Diamond of Bangor to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: This is an issue, quite frankly, that has been pretty close to the heart of legislators who live in northern Maine. The issue of access fees, the availability of the use of lands, and the question as to what is going to happen in the future with that land and whether or not the people who live in that area will have access to it.

The Representative from Old Town, Representative Cashman, tells you that the purpose of Tree Growth is not for recreation. On that point, he is correct. The logic fails, however, from that point on.

I was the original sponsor of Tree Growth so I think I can speak with some expertise on the question as to why we enacted that piece of legislation. Quite frankly, it was to encourage owners of land to grow trees and not to develop and not to put it into recreation. It was to provide the base upon which Maine's economy was chiefly based and that was the growing of trees. So, the tax was less.

Let me tell you that this was rather difficult for a member of my family to swallow because my brother and I own land together and, since I was the sponsor of the legislation, I felt it improper for us (or me) to put that land into Tree Growth. Every time the tax bill comes around in the month of June, he says, "Why is it that we pay three times the taxes in the unorganized municipalities of Winterville and Eagle Lake? Why can't we do like the rest of them?" I keep saying, "But it was my legislation and I don't think I ought to be in conflict or give the appearance of conflict." That is the way it has to remain until I leave the legislature and he is beginning to fear that we will never get the tax break.

The purpose, as I said, was to provide an incentive. What this bill calls for is, if you want to do something else with it, which by the way, means development, because under the present Tree Growth Law, if you get a lease from paper company land, on that land they apply for withdrawal from Tree Growth, and they pay the penalty as a result of that withdrawal. If you have acquired one of those leases you know that you pay for it. They simply pass on that cost to you in addition to the cost of your lease, if you happen to lease land in the unorganized that happens to be under Tree Growth.

What we are trying to do and trying to say to rest of Maine is, if they charge for other purposes than what that land was intended for and was in Tree Growth, then why should the tax break be given? That is a perfectly logical question. It is one that I believe that we ought to be sure that we don't give the break when the break is not deserved. This legislation, in part, was created by what took place in Millinocket on the Golden Road and, in part, by

what International Paper Company decided they wanted to do.

I personally believe that, when large blocks of lands are taken away from the availability of the general public for the availability of a selected few, that the break ought not to be given. I don't think it is asking too much. If they want the tax break, then all they have to do is not lease beyond that point.

I would ask you today to reject the motion of the Representative from Old Town, Representative Cashman, because we are, in fact, working on a couple of amendments, one that we thought we had drafted fairly well this afternoon, but it is not here. The Representative from Old Town did not want to withdraw his motion to accept the Majority Report so this is the opportunity we have to bore you with tonight.

I would ask right now for your vote in return for my letting you off tomorrow afternoon. Seriously, I think for those of us who live where we live, we are under tremendous pressure, far more so than you are under the pressure of development. Remember in our case, the pressure is coming, not from people, but from landowners who are closing off land. For example, we do own land and members of my family do as well, but personally if people want to post their land, then they have to forego some of the rights. If they want to prevent others from passing on their land, then I think we ought not to be what the King of England was.

I would ask you now to reject the motion of the Representative from Old Town and then tomorrow we can deal with some amendments on the floor.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: Following the gentleman from Eagle Lake is always a difficult task. I strongly feel if these individuals of these companies that everybody is talking about can stoop so low as to posting land, restricting land in some fashion, then I guess my rhetorical question would be, what is to prevent them from raping the land of all trees within the next six months? Then there will be no tax law, there will be no Tree Growth and then my chairman and I and a few others will have to figure how we are going to deal with tax policy. I wish you would all consider that rhetorical question.

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

Representative LORD: Mr. Speaker, Men and Women of the House: I was on that recreation committee with Representative Carl Smith, Representative Jacques, Representative Allen and Representative Hichborn. The first day of our meeting, we spent the whole day on access. It is kind of hard to explain to some of us people down south what access is. I was very much up in arms and really confused as to what was going on up there.

One of the questions that was asked, is it closing off the land or are they getting a fee for the use of the roads? It seems to be of the opinion that they were getting a fee for the use of the road.

Another question that was asked was, would anybody have the right to go by the gate and walk in there? The answer was, absolutely, if anybody wanted to go in there and walk, they could do it, but if they used the road, then they would pay the fee. I had never been up on the Golden Road in my life until last Fall when I went on one of those tours. We took two trips, as a matter of fact, one up there and one down further. That Golden Road is a paved road and, I might say, it is a lot better than a lot of roads in the town of Waterboro. I can see why it needs to

be because of the roads that go through there. We had a couple of those big trucks with trailers behind them and I am telling you, when we went by on that bus, we had to look up and it kind of made you shudder in case one of those logs fell off.

The point I am trying to make is, it is not, unless I have been misled, restricting people from using that land. They can walk in there, they can hunt and they can fish but, if they use the road, then they pay the fee. I am not a fisherman, I am not a hunter, never had the time, but there are a lot of fellows down my way that do go up there hunting and fishing.

If you want a really good opinion, you should go down to a filling station, grocery store, or a restaurant, so I went down to South Waterboro one day and I asked a couple of fellows that hunt and fish up there -- I said, "Do you object to paying a fee to use their roads?" They said, "Goodness, gracious, sakes alive, no. The road is good, we can get up to where we want to go fishing or hunting much quicker and safer. It isn't staving our equipment up and jarring us getting up over the bumps and hills and everything else."

I can understand why the people up there would feel they are being restricted but, when we go up the turnpike, I have to pay a toll to get up to here, because I use the road. That is what they are charging for, as I understand it. Maybe I am all wrong but that is the way I understand it.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: First of all, in reference to the comments made by the Representative from Waterboro, let me just say that, under the common law under which we operate, left over from the King of England, that the right of egress and transgress is very much part of Maine's law because I put it into Maine law about 12 years ago. That right of fishing and fowling, as it was then called, does not give anyone the right to use the road to walk. It is basically access to the fishing area and you have that right to get there on what is called "uncultivated land." A road is defined as cultivated, the courts have interpreted it that way. So, you can't use the roads (referring to being able to walk in) but there is some disagreement among people in northern Maine and I can say my hangup is not over charging for the road as it is the sealing off an area by the granting of exclusive hunting rights and fishing areas by pockets of land.

The amendment that I will offer tomorrow (if we ever get to that stage) will deal with those issues. Personally, that is my primary concern.

To the gentleman from Saco, I can assure you that if you talk to some of the people in Westmanland and that general area of Caribou, they can give you a description of clear cutting to a point where you probably wouldn't want to talk about the issue again. Their views are pretty solid on that issue. Tree Growth is there now. That is something that this legislature and this state has not dealt with but that is a separate issue from the tax question. That is a question of cultivation of the harvesting of trees. I hope that that clarifies the issue. I am hoping that you will give us an opportunity to offer the amendment tomorrow.

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

Representative ANTHONY: Mr. Speaker, I would request that the Clerk read the Divided Report on this bill.

Subsequently, the Report was read by the Clerk.

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

Representative HIGGINS: Mr. Speaker, Men and Women of the House: It would seem to me that, since we have an amendment that apparently is in the works to be drafted, that the appropriate time to debate the whole issue might be when that amendment was before the body and we might eliminate a lot of the debate that is going on here tonight over something we haven't seen yet. It would seem appropriate that someone table this until we could deal with it all at one time.

On motion of Representative Bott of Orono, tabled pending the motion of Representative Cashman of Old Town that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Thursday, April 7, 1988. (Roll Call requested)

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At this point, the Speaker resumed the Chair.

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The House was called to order by the Speaker.

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(Off Record Remarks)

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On motion of Representative Diamond of Bangor, Adjourned until Thursday, April 7, 1988, at eight-thirty in the morning.

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