

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Index

SECOND CONFIRMATION SESSION

May 13, 1988

Index

THIRD CONFIRMATION SESSION

June 15, 1988

Index

THIRD SPECIAL SESSION

September 15, 1988 to September 16, 1988

Index

FOURTH CONFIRMATION SESSION

November 14, 1988

Index

FOURTH SPECIAL SESSION

November 28, 1988

Index

HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

Comply with the Overboard Discharge Law
S.P. 863 L.D. 2251
(S "B" S-541)

Which was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

Senator WEBSTER of Franklin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senate at Ease
Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

Emergency

An Act to Amend the Motor Vehicle Laws and to Allocate Funds to the Division of Motor Vehicles

H.P. 1930 L.D. 2630
(H "B" H-772)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senators having voted in negative, and 24 being two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

An Act to Establish the Additional Support for People in Retraining and Education Program

H.P. 1744 L.D. 2390
(S "A" S-542 & H "C"
H-780 to C "C" (H-770)

Which was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Off Record Remarks

The ADJOURNMENT ORDER having been returned from the House READ and PASSED, in concurrence, on motion by Senator USHER of Cumberland, ADJOURNED until Wednesday, May 4, 1988, at 10:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
71st Legislative Day
Wednesday, May 4, 1988

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

Prayer by Reverend Arthur H. St. Pierre, Immaculate Heart of Mary Church, Fairfield.

National Anthem by the Old Orchard Junior High School Band.

The Journal of Thursday, April 21, 1988, was read and approved.

Quorum call was held.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

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

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

Reported Pursuant to the Statutes

Representative DUFFY from the Committee on Fisheries and Wildlife, pursuant to the Maine Revised Statutes Annotated, Title 12, section 7035, subsection 4, paragraph B ask leave to submit its findings and report that the accompanying Bill "An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations" (H.P. 1949) (L.D. 2642) be referred to the Joint Standing Committee on Appropriations and Financial Affairs for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted and the Bill referred to the Committee on Appropriations and Financial Affairs, Ordered Printed and sent up for concurrence.

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

(At Ease)

The House was called to order by the Speaker.

SENATE PAPER
Non-Concurrent Matter

Joint Resolution Requesting the Honorable John R. McKernan, Jr., Governor of Maine to Call a Special Session to Provide for Property Tax Relief (H.P. 1944) which was read and adopted in the House on April 21, 1988.

Came from the Senate indefinitely postponed in non-concurrence.

The House voted to Insist.

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

ORDERS

On motion of Representative WHITCOMB of Waldo, the following Joint Resolution: (H.P. 1942) (Cosponsors: Senator BROWN of Knox, Representatives TAYLOR of Camden and MARSANO of Belfast)

JOINT RESOLUTION IN HONOR OF
JUSTICE DAVID A. NICHOLS
OF THE MAINE SUPREME JUDICIAL COURT

WHEREAS, according to Socrates, "Four things belong to a judge: To hear courteously, to answer wisely, to consider soberly, and to decide impartially"; and

WHEREAS, it is these qualities and the high degree to which they are performed which mark the tenure of Justice David A. Nichols of Lincolnville; and

WHEREAS, this successful country lawyer has served the State well as a jurist, first on the Superior Court and, for the last decade, on the Maine Supreme Judicial Court; and

WHEREAS, Justice Nichols is an outstanding citizen and a dedicated public servant who has given much to the bench and bar of this State; now, therefore, be it

RESOLVED: That We, the Members of the 113th Legislature of the State of Maine now assembled in Second Regular Session, take this opportunity, on the eve of his announced retirement, to commend the Honorable David A. Nichols on behalf of the people of the State for his years of distinguished service; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Justice David A. Nichols for presentment to this honored friend and jurist in token of our thanks and best wishes for the future.

Was read and adopted and sent up for concurrence.

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

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

ORDERS

On motion of Representative VOSE of Eastport, the following Joint Order: (H.P. 1955)

Ordered, the Senate concurring, that "RESOLVE, to Establish the Commission to Study the Management of Water Resources in Maine," H.P. 1822, L.D. 2497, and all its accompanying papers, be recalled from the legislative files to the House.

Was read.

The SPEAKER: Pursuant to the rules, a two-thirds vote of the members present and voting being necessary, a total was taken. 88 having voted in favor of same and 13 against, and accordingly, the Order was passed and sent up for concurrence.

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

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Clarify Milk Pricing Laws as They Relate to Over-Order Premiums" (Emergency) (H.P. 1952) (L.D. 2645) (Presented by Representative TARDY of Palmyra) (Cosponsors: Senator BLACK of Cumberland and Representative SHERBURNE of Dexter)

(The Committee on Reference of Bills had suggested reference to the Committee on Agriculture.)

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

Bill "An Act to Clarify the Issuance of Securities by the Maine Court Facilities Authority" (Emergency) (H.P. 1953) (L.D. 2646) (Presented by Representative CARTER of Winslow) (Approved for

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

(Committee on Reference of Bills had suggested reference to the Committee on Appropriations and Financial Affairs.)

Under suspension of the rules, without reference to any committee, the Bill was read once and assigned for second reading later in today's session.

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Make Necessary Changes to Implement Comprehensive Land Use Planning" (Emergency) (H.P. 1950) (L.D. 2643) (Presented by Representative MICHAUD of East Millinocket)

(Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

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

Human Resources

Bill "An Act to Change the Effective Date for HIV Counseling" (H.P. 1954) (L.D. 2647) (Presented by Representative GWADOSKY of Fairfield) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed.

Sent up for Concurrence.

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

RESOLVE, to Revise the Kennebec County Budget to Reflect an Increase in the Surplus Account (Emergency) (H.P. 1951) (L.D. 2644) (Presented by Representative PARADIS of Augusta) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

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

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

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

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act Concerning Relocation of the Maine Emergency Management Agency Radiological Calibration Facility" (H.P. 1956) (L.D. 2649) (Presented by Representative NORTON of Winthrop)

(Committee on Reference of Bills had suggested the Committee on Energy and Natural Resources.)

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

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE

ADMINISTRATIVE OFFICE OF THE COURTS

P.O. Box 4820, Downtown Station

Portland, Maine 04112

May 2, 1988

The Honorable John L. Martin
 Speaker of the House
 The State House
 Augusta, Maine 04333
 Dear Speaker Martin:

It is my honor and personal pleasure to transmit to you and each of the other Representatives of the 113th Legislature a copy of the Twelfth Annual Report of the Judicial Department, pursuant to the provisions of 4 MRSA section 17.10.

Sincerely,
 s/Dana R. Baggett
 State Court Administrator

Was read and with accompanying report ordered placed on file.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" on Bill "An Act to Clarify the Sales Tax Exemption on Scheduled Airlines" (H.P. 1946) (L.D. 2641)

Signed:

Senator: TWITCHELL of Oxford
 Representatives: CASHMAN of Old Town
 DUFFY of Bangor
 WHITCOMB of Waldo
 ZIRNKILTON of Mount Desert
 JACKSON of Harrison
 SEAVEY of Kennebunkport
 SWAZEY of Bucksport

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

Signed:

Representatives: NADEAU of Saco
 DORE of Auburn
 MAYO of Thomaston

Reports were read.

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

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

I am not going to bore the House by going over the whole issue of whether tax treatment on leased aircraft of the airline industry in Maine be changed. That issue has been debated in this House on three different occasions in 1984, 1986 and in 1987. On all three occasions, that decision was made in the affirmative by the House, the Senate and reaffirmed by two Governors.

The issue here today is really not whether leased aircraft and purchased aircraft should be treated the same in terms of the sales tax. The issue is, what was the legislature's intent in 1984 when we first passed the change in the sales tax treatment for leased aircraft?

For those of you who were here and heard the debate, this history might be a little boring in itself but for those who weren't, I will run through it.

In 1984, Bar Harbor Airlines came to the legislature and said that they wanted to expand their fleet of aircraft, they wanted to expand their business and they lacked the capital to purchase the planes necessary to do it. Unfortunately at the time under Maine tax law, if you purchased aircraft, you didn't pay a sales tax, if you leased it, you did. They asked us to change that treatment so that leased aircraft was treated the same as purchased aircraft.

We did it. We sent them out of here and told them to expand their business, lease the ten aircraft in question and that they wouldn't have to pay a sales tax on it.

I have looked at the Legislative Record for 1984 and found the figure of ten aircraft mentioned on several occasions. The fiscal note and the future cost on that bill in 1984 talks about a one and a quarter million dollar fiscal impact that translates into ten planes.

A letter written by the President of Bar Harbor Airlines to the Joint Chairs of Taxation, then Senator Wood and Representative Higgins, indicated that Bar Harbor Airlines intended to lease ten aircraft and that it was their understanding that those ten aircraft would be leased tax free.

I was on the Taxation Committee at the time as was Representative Jackson. I believe we are the only two left in the House who were on the committee at the time. There is no question in my mind but the intent was for us to exempt from taxation the lease of ten aircraft. I don't think there could be any quarrel with that. It would be rather ridiculous for us to pass a bill for a company that was going to lease ten aircraft that would exempt three of them and not the other seven, there would be no purpose for the bill. I think legislative action is very clear that we intended for those ten aircraft to be leased tax exempt.

What has happened since is that an audit has been performed on Bar Harbor Airlines and that the Taxation Department in doing the audit has said that demonstration agreements existed for seven of those ten aircraft in advance of the law taking effect. And that being the case, Bar Harbor Airlines is subject to a tax on the lease of seven aircraft.

I will tell you that as a member of the Taxation Committee in 1984 that we knew full-well the demonstration agreements existed when we passed the bill. I knew it, other members of the Taxation Committee knew it, the sponsors of the bill knew it. The Taxation Department said they didn't know it. I guess you could take them at their word that they didn't. That is all well and good, their contention now is that if it was our intent (which it was) to exempt ten planes from taxation that we should have written the bill differently. If you accept that as being true, then the bill that is before you today in the Majority Report, is simply an attempt to do that, to right a wrong that has been done.

For my part, I know having been through this process that we (and by we I mean the Legislature) sat and looked at the management and owners of Bar Harbor Airline, as I said yesterday in committee, we looked at them eyeball to eyeball and we told them point-blank to go expand their business, to go lease ten aircraft and that they wouldn't pay a tax on them. That is the message they left here with in 1984. It is a commitment the legislature made four years ago. I don't think there can be any argument that was a commitment we made. They went ahead in good faith and I think justifiably relying on the law that we had passed and leased ten aircraft. Then, three years later in July of 1987, they assessed a tax on seven of them. That was not the intent of this legislature and if the mistake was that the bill wasn't written right, then let's correct it.

Yesterday at the hearing, we had a couple of people testify that they were troubled by this bill. The thing that troubled them was that they felt that the airline had taken a business chance, had made a decision, had rolled the dice, and had been given poor advise, perhaps, but for whatever reason, they lost. Now they were coming back in here asking us to

fix it and that bothered them. I would understand that except for one thing, a large share of that bad advice that they got came from us in this legislature. There is no question that the message that that airline and the airline industry got from the Taxation Committee was that they could go ahead and lease ten aircraft and that we wouldn't tax them. So, if they were given bad advice and relied on it, part of it came from us and we share part of the blame.

I think it is incumbent upon us to change that and correct it. I think it is incumbent upon us to clarify legislative intent. I think it is incumbent upon us to pass this bill. I urge the House to support the Majority "Ought to Pass" Report.

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

Representative MAYO: Mr. Speaker, point of parliamentary inquiry?

Under Joint Rule 21, does this bill require a fiscal note?

The SPEAKER: The Chair would advise the gentleman that that question is not posed at the proper time. The Chair will not respond.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I am a signer of the Minority Report and I am sure that doesn't come as a great deal of surprise to a lot of you since I opposed this action about a week ago when it was attempted in an amendment to another bill. I did oppose it this time and I continue to oppose it. I would like to lay out to this House my reasons for that vote.

I would like to put as a backdrop to that that the three times prior to this that I voted on the Bar Harbor Airlines question, in 1984 I voted against it, in 1985 I voted for it, in 1987, I voted against it. So I suppose if I am going to be perfectly inconsistent, I should vote for it this time but I am not.

Let me lay out the chronology of events that occurred around this question. In 1983, Bar Harbor Airlines has testified that they made order to Beechcraft Corporation to order some aircraft to be brought into this state and used in service in this state and outside of this state. On January 13, 1984, the first aircraft arrived in Maine and was used after that date. The service and use of that aircraft was in scheduled routes and they did carry passengers, they did sell tickets and did use those airlines for the purpose that all airlines operate, to transport passengers.

In April of 1984, a bill was introduced. It was passed without an emergency clause by the legislature in April and took effect on July 25, 1984. Bar Harbor Airlines had an agreement with Beech Acceptance Corporation which is the company that leases the aircraft to them. They referred to these agreements as demonstration agreements.

I have to stop at this point and tell you that I was a member of the legislature and I don't remember any discussion of demonstration agreements. I have asked those people who were on that committee, those who still serve and those who don't serve. There are some who no longer serve and, I have talked to staff and there is some disagreement as to whether or not demonstration agreements were ever mentioned. I suppose you have to draw your own conclusion. But I do not recall them. All the discussion I heard was that this was prospective, we needed to pass this so they could go and do something, not that they were already doing it.

Anyway, demonstration agreements were already in effect when they were first signed until June 30, 1984. They were extended for a month to July 30, 1984 and I asked this House, why would they be extended for a month? They were extended for a month because everybody knew when the effective date of the Act was, it was July 25th, so they extended a month to July 30th which was five days beyond the effective day of the Act, that is when it should have taken effect.

I guess the point here, ladies and gentlemen of the House, it really doesn't relate, I guess, to the exemption, it relates to the determination of those demonstration agreements as actually being leases, nothing more, nothing less, they are short-term leases so they come under the Act.

What made me believe they are in fact leases and the assessment was correct is that I have information from those leases that says that if Bar Harbor had not entered into long-term leasing arrangements that they would have had to pay a penalty of \$100,000 per month per plane. \$100,000 per month per plane, that is a pretty substantial plan for penalty and that would indicate to me that there is some sort of permanent financial arrangement in mind, a lease.

The law of the State of Maine on January 13, 1984 when the first taxful use (again, we are talking about a use tax) was that a use tax was due. The state tax assessor quite correctly, under the laws of the state, assessed that tax. The tax went through the normal process of appeal within the department and those assessments became final in December of 1987 when those assessments were included in the December revenues, included in the December revenues that you see on your desk. There has been a lot of confusion as to why that happens but that is the way we do business in this state, we operate under an accrual method of accounting. For those of you that don't know anything about accounting that means that you recognize revenue when it is earned rather than when it is actually received. That is the normal practice for large organizations, large companies, even small companies operate on accrual basis of accounting. So, that revenue is recognized and included on that sheet that we receive every month as actual revenue.

I asked about a fiscal note on this bill because there isn't one on it now and I feel that there is going to be a loss of revenue in this fiscal year and it will affect the budget and unbalance it.

The fiscal note on the bill in 1984 said that there was a future cost. Well, ladies and gentlemen, the future is now. There is a pending case in court, Bar Harbor Airlines is fighting a \$1.2 million plus assessment in court and this legislature is being asked to render that court case moot, basically have it thrown out.

I guess my feelings on this issue go in all kinds of directions. I have in the past voted for tax breaks for different organizations and groups. That has been called to my attention on many occasions. I think it is more appropriate to let the court take its action and if they find against Bar Harbor Airlines and there is an assessment and this legislature feels it should step in and help that airline out, that we should make them a grant or a loan or whatever, I think that is more appropriate. I don't like to see the tax code used to issue programs to corporations.

You know when individuals in this state are down on their luck and they need help, the have to come and demonstrate need, they have to show their financial capabilities and that they need help and then the state then gives them the help. This hasn't

been done in this case. That is another reason why I object to it.

I would ask you to look very carefully at this issue, to understand what the implications are. I will leave you with one final thought. On April 26, 1988, a case was settled by the Supreme Court of this state, it was Great Northern Nekoosa Corporation versus the State Tax Assessor. The decision came down April 26, 1988, last week. The tax in question is a use tax, the amount is \$2 million. The issue surrounds whether or not tree delimiting machines are subject to the use tax or not. Great Northern Nekoosa Corporation felt they were not so they didn't pay the tax. The state tax assessor felt that they were due and so they assessed the tax. The Supreme Court agreed with the state tax assessor. Is Great Northern Nekoosa Corporation and lord knows how many other corporations or individuals going to come in when they lose a tax court case and ask to be relieved of that burden? That is going to, ladies and gentlemen, cause a lot of problems for this legislature if we start down that path.

I would urge this House to vote against the pending motion.

Mr. Speaker, when the vote is taken, I request that it be taken by the yeas and nays.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: As the gentleman from Old Town has indicated, there are very few members who still serve in this body who were present at those hearings and that debate during 1984 which extended this sales tax exemption to leased aircraft.

The gentleman from Thomaston brings up some interesting points. One I would like to allude to is one that he just remarked with the Great Northern Nekoosa versus the Department of Taxation. It is unlike but yet it is similar to the case that will be pending before the Superior Court with Bar Harbor and the State of Maine. But, the question in that court case was interpretation of definition of equipment that was exempt from the sales tax, not the procedure that we are following with this bill today.

In 1984, that piece of legislation which extended the sales tax exemption to leased aircraft used in interstate commerce 80 percent or more, would be exempt from the sales tax. The vote when that was taken in this body was 99 in favor of extending that tax break and 33 opposed with 19 absent, so you can see that the vote in this body was rather strong at that time representing the views of the Taxation Committee in extending this sales tax exemption to leased aircraft.

Another issue that the gentleman from Thomaston talked about was the extension of the demonstration agreements. I think that is clear evidence that Bar Harbor Airways felt that the demonstration agreements were not subject to the sales tax and that by extending the demonstration agreements by 30 days that would meet the criteria to meet the sales tax exemption of the ten aircraft that they leased from Beech Acceptance Corporation.

I don't think there is any question here that legislative intent, certainly the intent of that industry, was to skirt the law. They were interpreting what we told them as a legislature in 1984 that we would extend to them the sales tax exemption on those leased aircraft which at that time would have amounted to \$1,250,000 of sales tax revenues to this state.

It seems to me that we made a commitment in 1984 to a Maine business, Bar Harbor Airlines and that commitment we made to them I think that we should

stand by and support. We have that before us this afternoon. We ought to recognize what Bar Harbor Airlines has accomplished since 1984 with this removal of the sales tax on leased aircraft. They have grown considerably folks, they are a Maine success story and we ought to be proud of that because we were part of that. Now, what we are saying is because of a fine interpretation of the law that the demonstration agreements were in fact leases, we are coming back for \$1,250,000 plus penalties that we want you to pay that. \$1,250,000 is a lot of money folks and I am sure we are all aware of that. It isn't going to be levied against Eastern Express because I am sure that when Eastern Express was incorporated that there were some agreements signed that would resolve them of any previous liabilities. Therefore, we are looking exactly and right back at the main event in 1984 which was Bar Harbor Airlines. Now, \$1.2 million out of a company's operating capital is a tremendous amount of money, particularly when they felt and we felt that they were exempt from that sales tax.

I just think this afternoon that when the vote is taken that we should reaffirm our support, those members who were here in 1984 and who have been here in 1985 and have supported this tax exemption again in 1986-87, that we should just reaffirm this and continue to provide this exemption and do it in the spirit of the law which it was intended in 1984 and that was to exempt those ten aircraft.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: As the newest member of the Joint Standing Committee on Taxation, this legislator went through an interesting process yesterday, if you can call a hearing of three or four hours in length interesting. I entered that hearing yesterday opposed to a tax break for Bar Harbor Airlines. I guess that is a natural inclination that one would have. But after sitting through every minute of the testimony that occurred, through the brief work session and after talking to many interested parties, it appeared that this legislature had in fact made an obligation to a company. Above and beyond the consideration of whether we agree or do not agree with that original activity, that company made business decisions based upon what they believed and after hearing the testimony yesterday I reached the conclusion that they and this legislature left feeling that a tax exemption had been extended to Bar Harbor Airlines for all of the new aircraft that were discussed. That company went on to make business decisions including the decision to base those aircraft in the State of Maine based on that decision that the legislature rendered.

The legislature, I assume at that time, I was not in the legislature at that time, made that decision based on a number of considerations. As we heard yesterday, there is fierce competition between any number of states for the opportunity to be the host for an airline. That and many other considerations. But whatever the considerations were, we made the decision at that time.

I reacted ten days ago the way most of the people in this House do to the many things that should have been different surrounding the introduction of this piece of legislation. That is why I went into the hearing and had to be convinced yesterday. We reached the agreement yesterday, I believe, that the original bill should have been different, a mistake was made. As to fault, I don't think it does any good to try to point fingers but at least in part the legislature has to assume some of the blame for not

crafting a piece of legislation that did what we intended to do. Perhaps they received poor advice, that comment can easily be made, as can the comment that the bureaucrats acted in a manner that was not consistent with legislative intent. That is obviously an easy charge to make.

Many of us in the legislature were obviously very upset when an earlier form of this legislation appeared in the 11th hour of the session two weeks ago after the budget had reached agreement among most of the members of the legislature. So, there really are many reasons to oppose this bill. I carried those, I think, into the committee yesterday. What emerged in this legislator's mind is the bottom line, we made an obligation, we didn't do it right, many things have happened since then but we made an obligation to a company upon which they made decisions. It seems to me that this legislature needs to live up to that obligation and it will involve living up to it financially as this piece of legislation moves on through the process. We made that commitment to a company and whatever manner we have chosen to do it, I think we must maintain in our minds that the obligation was made and we have to live up to that.

I would urge -- although if you had asked me 24 hours ago, I would not have felt this way -- after going through the hearing, I would urge now that you support the Majority position on this bill.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I have a few arguments of my own and a few answers to some of the arguments you hear from proponents of the bill.

One of the things that bothers me incredibly is the whole fact of the intent. Whether or not the intent of the 111th Legislature was to forever and ever (Amen) and in past tense allow a tax exemption to a major airline carrier, I don't believe is really what we are talking about. What we are talking about is tax policy.

The fact of the matter is that there was a \$1.25 million tax liability which was incurred prior to any legislative action taken by this House in 1984. I happened to be the Clerk of the Taxation Committee in 1984 and granted I was not necessarily privy to every private conversation that might have happened with committee members but I was sitting in the corner of that room and I am pretty well abreast of the gist of the arguments. To my recollection, the word demonstration project, demonstration agreements were never publicly talked about. As far as I know, there is a very, very, very fine line between the definition of demonstration agreements and a lease. These demonstration agreements that you are going to hear about a little more in the next half hour (I would assume) has to do with the fact that Beechcraft Air had an agreement with Bar Harbor which essentially said, we will let you have these planes on a trial basis. If you do not, after whatever it was, a couple of months, a few months, if you do not agree to lease them, then you will be assessed a \$100,000 per month, per plane charge. If they ended up leasing them then, yes, maybe, we could be discussing, debating a whole different area here. However, the fact was that there was a so-called demonstration agreement made. Once the demonstration agreement happens, as best I know, the planes would have been flown, a pilot, maybe a copilot and they would have flown it, take on a few landings for a couple months to see if the plane was in fact satisfactory.

What they did was carried passenger traffic. When you conduct business on a temporary basis, that is a lease. That lease is liable to a use tax.

To those proponents who would argue that certain bureaucrats in this State House complex have a vendetta weren't really thrilled with the legislation in the first place and now are just out to get a certain company, I would argue whether this is just the fact that a bureaucrat was doing the job that we expect that person to be doing, looked at a few books, examined a few dates and said, wait a minute, something is not right here. Subsequent to that point, brought it to the attention of a few other people, and as Representative Mayo alluded to a few minutes ago, we have this court case which brings me into another argument.

When the founders of this Constitution established three branches of government, I would like to believe that they did it for a purpose. We have our branch which does our thing, we have the gentleman on the second floor who does his thing, we have the judiciary who do their thing. I don't believe that it is very good policy or a very good precedent for the legislature to be interfering with a case that is now in the judicial branch. I think it might be a more desirable policy to let the judiciary do what their task entitles them to do.

To those who argue the vendetta that is my counter, that we simply have a bureaucrat who was doing his job and trying to be as consistent as he could with the law as it was written. The law was never written to be retroactive. If this legislature today or tomorrow passed a bill that would say essentially that all married couples with two dependents would receive a tax exemption of \$1,000, we wouldn't expect anyone to come here and ask for payment from 1984. This is basically the same thing. This legislature should not be dealing with a tax liability that happened a few years ago. If we want to, if it is the pleasure of this House, then we should be addressing legislation prospectively, not retroactively. Just as this Legislature, the 113th, cannot legally bind the members of the 114th Legislature, I don't believe that the 113th Legislature has any business counting on a so-called error of the 111th Legislature and do something retroactively in the name of the 111th Legislature.

I guess in closing, the last phrase that I would like to use is a phrase made popular in 1987 by the first lady of this country, I would simply say, "just say no" when the vote is taken on this.

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 Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. I would like to explain a couple of small items regarding this bill.

The first thing you have to realize is that before this bill was introduced -- and there was a bill introduced in March of 1984 with an emergency clause on it and they did not feel they had the two-thirds so they withdrew that and introduced the bill without the emergency. Had they had the emergency, three of those planes that are now being assessed would have been included but they didn't

have the votes for that. That's why they are up to seven.

I would also like to explain to you that before they came seeking this tax relief, those planes that were ordered that were under demonstration agreements had to be ordered a year in advance. This was brought out in the hearing yesterday. In other words, they were ordered in 1983 prior to any legislation being introduced for tax relief. So, the argument is made that they would have returned the planes. Well, I did a little math and the penalty, if they returned them after the demonstration agreements, was \$100,000 per plane per month. So, that adds up, when you are talking about seven planes and there was basically one a month introduced, January, February, March, April, May, June, July, that adds up to more than the current assessment. Just so you know.

An indication that what they basically did is made a decision that the demonstration agreements perhaps would not be interpreted as leases and I think it was a calculated business risk. With all due respect, I don't think that is necessarily a bad thing. I think that you take the best advice -- and I know there are legislators who want this body to assume the responsibility for the fact that demonstration agreements have been determined by the Bureau of Taxation to be leases, but I would like to point out to you that all people who are in business have, hopefully when they are in large corporate entities, they have CPA's, they have tax attorneys, they have corporate attorneys, on the best advice of those people, I am going to assume they went for this exemption. I feel that when the audit came around, that is where the failure was. It was an attempt with the advice of their counselors and their CPA's, whom I assume are very worthy and capable of their jobs, I happen to believe they said, you try it. I don't know how demonstration agreements will be interpreted but you can certainly try to take it. They all knew the effective date.

What happens is when you get audited sometimes, the interpretation is different from the Bureau of Taxation and those two interpretations are currently in Superior Court and it must be Beechcraft who takes us to court. When the State of Maine assesses a tax, the institution against which it assessed the tax or the business, must take us to court. So, they have us in Superior Court right now and I think it is appropriate to leave this matter up to the Superior Court and they can win or lose in Superior Court. They certainly can have their day in court, it is one of the beautiful things about America.

What I am afraid of with this -- you know, I don't know if you know anything about fish in the Amazon River but they get into a feeding frenzy -- I am afraid that if we roll back a date on a tax exemption, we will whip businesses that seek tax relief into such a feeding frenzy, that all that will be left for the needs of our citizens in this state will be the bare bones. That is the problem with rolling back a date from my perspective.

I would also like to point out, in my newspaper the Sun Journal, for a while I thought politics makes strange bedfellows, the Governor is going to be on my side on this, well it didn't work out that way. It was almost too good to be true. But, the Governor has decided, apparently, to sign this measure if, so long as it understands that there is a substantial cost which will need to be funded, said McKernan aid Alan MacEwan, he will sign it as long as it is paid for. I don't see a fiscal note so I am not sure you have the Governor's signature on this.

My friends on the other side of the aisle, I thought, might be interested in pursuing this matter.

So, that is the basis of my objections. I think this matter is in court and that is where it is appropriate for this to be adjudicated.

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: Two words, corporate welfare.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Hickey.

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: Many times in the past legislature, we have been asked to support requests from businesses locating in Maine. Invariably, the requests have been involved with improving the economy and providing employment. We can look back on requests for assistance from Pratt-Whitney locating in Berwick, the Bath Iron Works dry dock in Portland, assistance for Keyes Fibre and help to the International Airport in Bangor. All of these requests and ventures have proven very successful economically and have provided good paying jobs for Maine people. These firms have helped tremendously providing the economy we enjoy in Maine today.

In 1984, Bar Harbor Airlines asked for assistance. They are in a very competitive business and wanted to improve the types of planes comparable with airlines in other states. Bar Harbor wanted to hire more people, mechanics, pilots, administration and support personnel. This tax treatment was critical to that happening.

Well, as we all know, the exemption was enacted. Bar Harbor fulfilled its commitment, employees went from 297 to 597. The planes were leased, services were improved.

As legislators in 1984, we were concerned with improving the air transportation system. We were also interested in the safety factor and voted favorably for their leasing program. We must stand by these principles and stand on our commitment to better and safer air transportation in Maine and the jobs and economic benefits that commitment has brought to our state.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I want to echo the remarks of my colleague from Augusta, Representative Hickey, and expand upon them briefly. In addition to the number of employees that were increased as the Representative pointed out, the payroll increase has also gone from \$5 million in 1983 to \$10.2 million. The Maine income tax withheld from \$159,000 to \$422,000. If anything, the welfare in this situation has benefited the people of the State of Maine who have benefited through increased payrolls and also those who have been fortunate enough to obtain jobs, that welfare has gone way beyond the corporation in this case to benefit all of us.

As far as the demonstration agreement is concerned, we are talking about \$25 million here for a few aircraft. Now, how many companies do you know that will go ahead and start construction of ten new airplanes worth \$25 million just because you call and tell them you want it. I have a rough feeling that they may want some kind of a commitment before they make that kind of an investment. Now, granted they couldn't get the actual leases in this case, so they get the demonstration agreement. These aircraft aren't built on speculation, they have to have some orders, they have to know those planes are going

somewhere. That is the only way that someone can get those planes is to make some kind of a commitment.

This company made a business decision. As was pointed out, that decision was that they had to expand. The demand was there, they had no choice. The issue was where that expansion was going to take place. The State of Maine had an opportunity to address the inequity within our own tax laws with regard to what was previously pointed out, the taxation treatment of aircraft which are purchased, which of course are not subject to the sales tax or aircraft which are leased are subject. So, Bar Harbor Airlines have the option to come to its own legislature in its own home state and ask for an equitable treatment to be granted to them so that they could expand within the State of Maine or as Representative Dore pointed out, they could have subjected themselves to that penalty and turned those aircraft back in and paid that penalty. I don't think that is what would have happened. I have a sneaking suspicion that they probably would not have wanted to incur that massive payment and those aircraft probably would have ended up somewhere else, perhaps in another state where the tax treatment is a little more favorable towards a company that needs to expand.

If that had happened, we wouldn't have had all these jobs in the Bangor area and the Portland area and the many other areas of Maine that now enjoy that kind of prosperity. We wouldn't have had direct air service from Presque Isle to Boston, which I think is one of the keys to unlocking the mysteries of economic development within the north and eastern areas of our state that thus far have escaped the same economic prosperity that the south has enjoyed. So, this airline is much more vitally important to our economy than just a few jobs that they provide, which number in the hundreds at this particular stage.

As far as the Representative from Saco, who gave reference to his being the Committee Clerk at that time and whether or not there was any knowledge of a demonstration agreement, I have had conversations with the former chair of that committee, Representative Craig Higgins, then of Portland, and he recalls with great detail that those demonstration agreements were not only discussed but in fact shown around. They had an opportunity to look at them. They knew full-well what was going on. In a letter dated April 9, 1984 Mr. Caruso, the President of Bar Harbor Airlines, makes it very clear that they had to get these aircraft. He said it is absolutely imperative that we acquire new aircraft to meet the service demand and goes on to say that Bar Harbor made the decision to add ten new state-of-the-art pressurized prop jet planes, the beech model 1900, so it was no secret that the exemption they were requesting was for ten aircraft with a value of \$25 million.

Representative Jackson even makes reference to that in the House Record when that issue was discussed in April of 1984.

The issue today is not one of tax policy. The issue of tax policy was decided when the House voted 99 to, I believe, 33 to grant that exemption. The issue today is whether or not we will honor a commitment made by a previous legislature and whether or not we will continue to help a company who has done more than they ever promised to help Maine.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: A lot has been said about a commitment that was made by the legislature in 1984. I was a member of that body and, as far as I am

concerned, what I voted on or what was discussed at that particular time, was a tax break commencing from the date of the effective date of the legislation. I don't remember any retroactive provision that was discussed. I don't remember that and, of course, I am getting older and I have been told by one of my seatmates that I may have Alzheimer's disease, but what I am conveying to you is what I remember took place on that date.

The thing that really bothers me is the fact that this thing is in court. I don't think that we should be fooling around with that. It has been mentioned that we have a judiciary to take care of those things. And if we do this, I believe this will be the first time that the legislature has meddled in the judiciary system. By that I mean that there was a case that was being handled by the court where the legislature came in and said, that is wrong, we are changing the law.

I would like to pose a question to whoever may be able to answer it. It is my understanding that the demonstration agreement that took place was sometime in January through July. This amounted to \$1.2 million in taxes. Now the question is, how much money has Bar Harbor Airlines saved from that period up to now?

The SPEAKER: Representative Racine of Biddeford has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I do have those figures here. The fiscal impact and the action that was taken in 1984, repair parts were \$237,000, possible aircraft \$1.25 million. In fiscal year 1985, when that bill was passed, repair parts were \$183,000, airplane purchase or lease \$1,018,000. In 1987 when that act was passed and in fiscal year 1988, it was \$2,046,000, in fiscal year 1989, it was \$2,600,000 for a grand total of \$7,334,500.

I want to correct for the Record just some information that I heard that wasn't technically correct and then make a few other points. First of all, let's remember that we are talking about a use tax, not a sales tax. Several people have mentioned the sales tax, this is not a sales tax, this is a lease so therefore, it is a use tax.

Representative Jackson referred to a fine interpretation of the law. I don't believe that this is fine. I would point out that I was told that the State Tax Assessor's case is so strong that the Attorney General's Office was planning to move for some rejudgment. I wouldn't say that if it was based on a fine interpretation of the law that that was going to be happening.

I have also heard today that this is an assessment against Bar Harbor Airlines. It is not. It is an assessment against Beechcraft Acceptance Corporation, not Bar Harbor Airlines.

I have heard people talking about the legislative intent and I have spoken on that. Representative Racine has spoken on that, I don't remember any intent. At the very least, when Bar Harbor Airlines left this legislature and when I left this legislature, I thought when that bill took effect, we had an agreement, that that agreement wasn't before then and wasn't retroactive back six months.

Representative Zirkilton (I am sorry he isn't in his seat) said when he spoke just a few minutes ago that, if Bar Harbor Airlines decided not to keep the airplanes and would decide to move them to another state, that may very well be true but even if they

had done that, under the use tax laws of this state, that tax would still be due.

He also said something that really peaked my interest when he said that they have done more than what they committed to this legislature. In 1987 when I served on the committee, they promised us -- maybe my memory is wrong -- but they promised us two things, that they were going to increase their work force to 800 jobs in Maine. I don't think that has happened. And, that they would not cut back service. Six weeks after the legislature adjourned in 1987, they stopped service to Auburn. That needs to be on the Record.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: When we hear the comments based on memory, I only wanted to briefly suggest that one part of the comments of the Representative from Biddeford, Representative Racine, made were correct when he questioned his memory because as I look at the House Legislative Record on the vote, he was listed as absent on the day that vote was taken on the Bar Harbor Airline bill.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I have been here six years and I have been in a lot of debates and I think you can always judge how interesting the debate is by the attendance. Looking around and seeing the attendance, I will try to make this very brief.

I do have to address some points that were made because I don't think they were accurate. It has been twice stated that there was no discussion of the original bill being retroactive. There is a very good reason for that Mr. Speaker and that is because we didn't feel it had to be. Again, remember I said that the Taxation Committee was shown demonstration agreements. Some members of the committee or former members of the committee were there and don't remember that and I can't explain that to you, you would have to ask them why they don't. Two members of the legislature right now were on the committee at the time, three members actually counting a member in the other body, remember them very clearly. The cosponsor of the bill who testified yesterday remembers them very clearly.

They were shown to us and we did not make that bill retroactive for one reason, we did not believe that those demonstration agreements would be subject to a tax. We didn't believe it, we were not corrected on that, that is what incited my anger at the Taxation Department. It wasn't the fact that they went out and did an audit and said that these demonstration agreements were in force and, therefore, they owed the tax. Perhaps that was a little unfair to my good friend over in the State Tax Office and, as a matter of fact, we talked about it at length yesterday. What angers me is that the Attorney General's Office and the Taxation Office who were there at the time did not suggest to us as Taxation Committee members that these things would be subject to a tax. That is why we didn't make the bill retroactive, we didn't think it was necessary.

The very fact as was pointed out by the gentleman from Thomaston that the demonstration agreements were extended a month was done for two reasons, first of all, they wanted them all to end on the same day because the next day, which was August 1st, was when the lease agreements took effect.

Secondly, the bill didn't take effect until July 25th and they didn't want to sign the lease agreements until the bill took effect because they

didn't want to pay the tax. So, they extended the demonstration agreements because it was their understanding, uncorrected by us, that those demonstration agreements wouldn't be subject to a tax.

It has been asked several times, what is going to be done about a fiscal note on this bill, just so the House will know when it gets to Second Reading I am having one prepared.

Finally, it has been stated that we should let the courts decide and that we shouldn't interfere. That position assumes that we played no part in this. As I stated when I was on my feet the first time, we did, we made a commitment. Based on the commitment, business decisions were made that people are being asked to pay for now.

My good friend from Auburn mentioned fish hunger or fish eating or whatever -- I thought of this in a fishing analogy myself. Perhaps the State of Maine, four years ago, cast their line into the water and caught a fish themselves. Perhaps we led some people down the primrose path, that if you expand in Maine and you invest in Maine and you lease 10 aircraft, we are not going to tax you. Then bang, we hooked them. I hate to think that that is the legacy that we leave here.

I have maintained to this legislature that the 111th Legislature made a commitment and I would defy any member of this body who was here in 1984 to stand up here and say that it was their understanding when they left, that the bill we passed would exempt 3 planes from taxation and tax 7. I would like anybody to stand up here with a straight face and tell me that they believed that then because I know you didn't. We were talking 10 planes, we spoke of that in the Record and the fiscal note referred to it and everybody knew it.

I urge this House to maintain the commitment that we have already made.

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

Representative DORE: Mr. Speaker, Men and Women of the House: Very briefly. By the way, it was feeding frenzy, fish are sometimes known to engage in.

Representative Cashman, I think, is correct that those 10 planes were the intended 10 planes in the demonstration agreement. Every law that we pass in this body, we do not guarantee the interpretation of. I don't know how many of you are aware of that fact but we do not. It is up people to hire their own tax attorneys and, in this case, certified public accountants, I should hope, to determine what the effect of a piece of legislation will be on their business. I don't think we want to get into the business of interpreting things for corporations.

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

ROLL CALL NO. 295

YEA - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bost, Boutilier, Bragg, Carter, Cashman, Chonko, Conley, Cote, Crowley, Curran, Daggett, Dexter, Diamond, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Garland, Glidden, Gould, R. A.; Greenlaw, Hale, Hanley, Hepburn, Hichborn, Hickey, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Marsano, Martin, H.; Matthews, K.; McGowan, McPherson, McSweeney, Michaud, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Norton, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pines, Pouliot, Rice,

Richard, Ridley, Ruhlin, Salsbury, Seavey, Sheltra, Sherburne, Simpson, Stevens, A.; Stevens, P.; Stevenson, M.; Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Thistle, Vose, Walker, Warren, Wentworth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Allen, Anthony, Baker, Brown, Carroll, Clark, H.; Clark, M.; Coles, Davis, Dellert, Dore, Foss, Foster, Gwadosky, Handy, Harper, Higgins, Hogle, Holloway, Kilkelly, Macomber, Manning, Mayo, McHenry, Melendy, Mills, Mitchell, Nadeau, G. R.; Nutting, Oliver, Perry, Priest, Racine, Rand, Reed, Reeves, Rolde, Rotondi, Rydell, Scarpino, Small, Smith, Soucy, Stanley, Taylor, Tracy, Tupper, Webster, M.; Weymouth.

ABSENT - Bott, Callahan, Gurney, Hillock, Kimball, Lacroix, Mahany.

Yes, 95; No, 49; Absent, 7; Paired, 0; Excused, 0.

95 having voted in the affirmative and 49 in the negative with 7 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading later in today's session.

The following item was taken up out of order by unanimous consent:

COMMUNICATIONS

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE
04333

April 27, 1988

TO: The Honorable Members of the 113th Maine Legislature:

I am returning, without my signature or approval, H.P. 1612 - L.D. 2205, AN ACT to Establish Child Care Availability for Individuals in the Substance Abuse Treatment System. This legislation represents an attempt to meet child care needs of certain individuals who enter treatment for alcohol and substance abuse. However, in my judgment this legislation will not achieve its intended results, and there are more effective and less costly means available for addressing the problem.

This legislation requires that \$300,000 be given to substance abuse providers to establish three pilot projects in different geographic regions, to determine the effectiveness of child care in improving the success of treatment and reducing the cost of alternatives. There is very limited data about child care needs in this population, and a \$300,000 investment in pilot projects would not be a practical means of filling the information gap that exists. Moreover, the Department of Human Services could not ensure proper oversight for expenditure of these funds with so little information and legislative language to guide them.

Equally important, this legislation would fragment Maine's effort to develop systematically a comprehensive child care system. Under the proposed legislation, substance abuse providers would be developing pilot projects at a time when the DHS Child Care Office with its newly-established Resource Development Centers is just beginning to mobilize resources. This latter effort is aimed at addressing the child care needs of all Maine citizens, including mentally or physically disabled children, or children of parents seeking extensive treatment for a variety of disabilities.

Finally, these funds would come out of the Alcohol Premium Fund, effectively reducing by 75% the funds that were to have been carried over from 1989 into 1990 to ensure a continuing level of operations

for existing alcohol and drug abuse services. An expenditure of this proportion, with this degree of impact on the existing level of services through 1990, requires far more analysis and justification than is available for these pilot projects.

I am sensitive to, and fully intend to address, the child care needs of this particular population. I believe, however, that available information points to a different solution to the problem which L.D. 2205 attempts to solve. The unpredictable and sporadic nature of child care needs of persons undergoing substance abuse treatment using outpatient and residential services, requires a flexible child care system upon which patients and providers can draw on an as-needed basis.

I will propose, as an interim measure, that a certain number of child care slots be set aside for this population. Furthermore, during the remainder of this year, we will obtain additional information from the treatment system and assess availability of child care resources in each geographic area of the Resource Centers. Long-term recommendations for meeting the needs of this group will be included in my legislative package to be submitted to the 114th Legislature.

Because I do not believe L.D. 2205, however well-intended, will effectively meet the needs of the population it is intended to benefit, and because more feasible alternatives are available, I am in opposition to L.D. 2205 and respectfully urge you to sustain my veto.

Sincerely,
S/John R. McKernan, Jr.
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act to Establish Child Care Availability for Individuals in the Substance Abuse Treatment System" (H.P. 1612) (L.D. 2205) (C. "A" H-662)

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: This legislation represents an attempt to meet child care needs for certain individuals who enter treatment for alcohol substance abuse. This legislation requires that \$300,000 be given to substance abuse providers to establish three pilot projects. However, this legislation will exceed its intended results and there are more effective ways and less costly means available. There is very limited data about the child care needs in this population. These funds will come out of the Alcohol Premium Fund effectively reducing by 75 percent the funds there that are needed to carry over from 1989 to assure certain levels of operation.

There are certain child care spots set aside from some of our other bills. The Governor has suggested a four part plan on the part of Department of Human Services to address the needs of providing similar quality and safe child care to Maine people, first designating 26 child care slots from L.D. 2156 to be available for persons seeking substance abuse, whether in or out patient.

Two, Commissioner Parker has discussed the ability to use the Bath Children's Home for a residential child care facility for those people in temporary custody.

Three, examining continued use of voluntary of foster care systems to minimize the emotional, physical, and medical barriers.

Four, to work with Commissioner Atwood through APBC to examine an entire array of child care needs. This examination will use a comprehensive and coordinative approach to child care for substance

abuse systems and address the issue of transportation, client needs, family resources, treatment and other needs for these people.

I hope that you will sustain the veto.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope that you override the Governor's veto. This legislation is about what constitutes appropriate expenditures of premium dollars. But for me, more important than that, is about women as alcoholics and alcoholics as mothers. We certainly have come a long way in this state in accepting the disease concept of alcoholism.

This bill, however, would have moved public policy forward in the area of substance abuse treatment, child care and I think most importantly, family preservation. Many of us still think of the alcoholic or drug abuser as a man. The female abuser remains hidden. She is less likely to come to our attention because she is less likely to drink and drive. She is less likely to be picked up by law enforcement officials for public drunkenness or aggressive behavior because she drinks alone. She is less likely to come to the attention of her coworkers because they do not realize the nature of her problem or because she is not in the paid labor force. If she is in a relationship, her partner is more likely to enable her drinking than if the abuser is a male. But in the end stages of her disease, she is more likely to not have a partner than as a man. However, sadly ladies and gentlemen of the House, when her partner leaves, he leaves children with her and the majority of women alcoholics still have children at home. Only one in ten women are still in a relationship at the time they enter treatment; thus, the need for child care for substance abusers to receive treatment really is a crisis situation.

Evidence is now fairly conclusive that alcoholism is a family disease and I mention that in several ways. First, there is a genetic predisposition to the disease which means that some people will have a genetic code and all one needs to do is add alcohol or drugs and a full-blown addiction is likely to result.

I would also say to you, ladies and gentlemen of this House, that in spite of the fact that we hear a lot about drug addiction, alcohol is always the entry drug of choice. If one lives in an alcoholic home, one learns to use alcohol to deal with life's situations. While some children see substance abuse in their homes and do decide to abstain, the usual pattern is that children follow their parents example of using alcohol or drugs to deal with life's stresses.

Substance abuse is also a family disease and that, not just the users, but all family members suffer. Evidence is now readily available which suggests that many dysfunctional adults grew up in households where there was substance abuse.

This bill suggests ways to move forward in stopping this cycle that threatens the family unit, not just for the abuser but for all family members. We know and the evidence is there -- the Department of Human Services has already collected data from persons who are already in treatment that getting child care to receive treatment is a problem. Even if they have gotten to treatment, it is a problem so we know that there are people who never get to treatment. Even parents who want to enter treatment are afraid to leave their children with a friend or a partner. If you had been at the public hearing, you would have found people telling their stories, major horror stories of leaving children with friends or

with their former spouse or former partner only to have the children further traumatized or abused.

Additionally, and I think members of the Appropriations Committee would verify this, there is a perception and I think it is probably a very real perception, that foster care is not available for children so that their parents can enter treatment. This bill would have allowed us to develop programs that would not separate parents from their children, it would have allowed parents to obtain treatment for their disease and treatment for their children at the same time. Most importantly, it would have allowed clinicians to begin the healing process for the whole family.

In considering this vote and this veto, I ask you to remember that this bill went under the hammer in both Houses. The Department of Human Services testified neither for nor against. I tried all this session to talk to the Department of Human Services about child care slots for this population without success. Two programs, one in Bangor at a halfway house and one in Rockland that does day treatment, are ready to begin immediately to provide children's programming as they treat adults.

Governor McKernan has said and he is quoted widely by Commissioner Ives that "his goal is to make Maine the best place to live, to work and to raise a family, not just for some but all of our citizens." When you vote, ladies and gentlemen, I ask you to consider those words. I believe that if you vote against overriding this veto, you are saying that it is important for this state to have a child care policy but not for children of alcoholics. That is important for most women to be able to achieve their potential but not for women alcoholics and that it is not good public policy to spend money generally from the premium fund on the support systems that single parents need in order to begin a recovery.

I hope that none of these are the messages that you wish to give to your constituents. I certainly don't want to. I urge you to vote to override on this pending motion.

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

Representative ANTHONY: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair. My question is really in two parts -- it is my understanding that the Governor in his veto message implies that child care needs of the type called for in this bill should be addressed through the resource development center established by the Department of Human Services. It is my further understanding, however, that those resource centers deal principally with day care and yet the bill that we have before us deals principally with overnight care in extended periods of 24 hour care. First of all, to get a further understanding of the nature of the Department of Human Services Child Care Development Centers -- is my understanding correct that they are day care and secondly, is my understanding correct that this would deal more with overnight in extended periods of cases?

The SPEAKER: The Representative from South Portland, Representative Anthony, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: In response to the Representative from South Portland's question, it was my intent in framing the bill that child care would be available for persons who wished to receive any of

the continuum of services. That would be out-patient day treatment which is increasingly a treatment of choice, would be in-patient treatment and which would be halfway house treatment. In-patient treatment will be the most difficult to provide and I think realistically we probably cannot expect to do that until we have hospitals that would be providing 24 hour treatment or 24 hour a day coverage for their employees. Some hospitals are going to that.

However, the two programs that I mentioned that are prepared to start almost immediately is a halfway house in Bangor. This would be a place where women go for extended periods of time, usually three to nine months. Historically, they have not been able to take the children. It would operate under the same kind of a model as domestic violence shelters do now. There would be places for children, there would be support groups for children, there would be children's programs and I think, most importantly, for those parents who needed help with parenting skills, they would get that in a supervised situation.

There is also a need for a drop-in kind of arrangement which is the kind of arrangement that Skyward was prepared to start, again almost immediately. Other programs are looking at the kinds of ways that they could use this money. With this veto, they aren't going to be able to do it.

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

Representative ANTHONY: Mr. Speaker, Men and Women of the House: With that understanding, it would appear that the veto is a bit misplaced and I would urge members to vote to override the veto. It would seem if the child care research development centers are more directed around the day care, we are talking here about a whole spectrum of child care needs which include a variety of resources that are not addressed essentially in the child care centers as they are being developed in my understanding of them and that being so, I would join with the Representative from Brunswick and urge an override.

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

Representative CARTER: Mr. Speaker, Men and Women of the House: I rise to concur with the statements of the two previous speakers and I would urge you to follow their example when it comes time to vote.

We had a hearing on this proposed legislation and let me say before I begin that I think this is a historical first for the Appropriations Committee. I don't think we have ever had the pleasure of experiencing a Governor's veto on an Appropriations bill, not as long as I have been present on the committee anyway.

Nevertheless, let me continue on the subject matter before us. On the 25th of February, we had a public hearing on this bill and the Department of Human Services appeared before the committee and fully agreed that there was a definite need for it and they have suggested or they preferred that they would rather see the Governor's existing programs of \$3.2 million for child care be amended to take care of the 24 hour provision. However, before we reported out this bill, we received no amendment from the Department of Human Services and consequently, the program that the Governor now has in place, it is my understanding that it is only for 8 hour care. Unless the language in those bills are changed, no one can provide care for 24 hours so this bill is really needed if it is going to serve the purpose for what it was written for. I would urge you to follow my light.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: There's two piece of information that I think is very important for people to consider before taking a vote on this veto. First of all, the Governor in his veto message, states that this legislation would fragment Maine's effort to develop systematically a comprehensive child care system. I don't believe that is a fair statement. We are in the midst of trying to development adequate child care and to have a comprehensive and systematic method of providing child care to meet all the needs of Maine's citizens. But, the problem of child care for women who are seeking treatment of alcoholism is different from the problem of child care for a person seeking to be out of the home for employment. It is extremely important that that alcohol treatment and that child care need be integrated, that that system be integrated if the treatment is to be effective. If the woman is to be able to participate fully in the treatment, she must know that her children are safe and it has also been stated to me by persons who are involved in treating alcoholism among parents that it is very important that the treatments be for the child as well, that the children's program must be a part of the total treatment program. That is why this bill was so very important because it would allow us to look at several pilot projects that attempted to do just that and to be able to make very important statements about what is effective and what is not and then to go ahead and make recommendations for future child care for women in this situation.

Secondly, we know that 24 hour care is needed and will be needed by women in a treatment situation. It has been stated that the foster care system would be available to persons in this situation — well, let me tell you that there is an incredible lack of foster care placements in this state. Foster care workers are desperate for placement for children who cannot remain in their own homes because of abusive situations or because that home really no longer exists. Preference would not because it could not be given to children of women who were seeking alcohol treatment if, in fact, they could remain in their own home with their mother if she were not in the treatment situation. Foster care workers are literally desperate in this state. We have now passed an insurance mechanism to try to increase the recruitment of foster care parents but that is a long time project, it will not solve the problem now, it won't solve the problem next year for these women because it first must solve the problem of a lack of foster care slots for children who must have them because of abusive situations.

I would ask you to consider very, very carefully the fact that this bill provides us with an opportunity that no other bill and no other child care program will allow us to do and when the vote is taken, please vote to override this veto.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: I hope you will sustain the Governor's veto. I feel that this bill does do some of the things that we hope to do. The Governor has suggested that he will provide some care in the Bath Children's Home for overnight care. We do not know yet the number of parents who will need to place their children in foster homes. You will also be depleting the alcohol premium fund by 75 percent and that will affect many of the programs that will be proceeding into 1989 and 1990. I hope that you will consider the fact that the Governor is concerned

about child care and about the parents who are involved in alcohol treatment and sustain his veto.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: First, let me clear up a point that was made by the previous speaker in that it won't reduce the alcohol premium fund by 75 percent, it will reduce the carryover from the previous year by 75 percent where it is going to be funded from. So, it will have a minimum effect on the treatment provided generally.

We have listened to all the other people talk and I guess it is time to tell you like it is again. You have to understand about the alcoholic. This woman who has finally come to the decision that her life is an absolute total mess, that it is beyond her control and beyond her ability to handle and is seeking treatment -- if we sustain this veto, what we are telling this person who is literally having trouble walking down the street, she doesn't know where she is, she doesn't know where she has been and she doesn't know where she is going -- she knows two things, she knows that she has a problem that she can't handle herself and she knows that she has kids that she can't handle herself and she has got to have help with them. Now, if we go with the Governor's plan, you are asking her to walk into the Department of Human Services and say, "Hey everybody, I am an alcoholic and I want one of those slots set aside, will you please give that to me?" Now, if you think that is going to happen -- this person is so shaky that they are literally on the edge of not being able to function. The first thing we are doing without this bill is saying, you must go to the bureaucracy and admit to an illness that in all likelihood you have not fully admitted to yourself yet. It is not going to happen. The bottom line is, the Governor's idea may be a little cheaper. But, the real bottom line is, the Governor's idea won't provide the services to the people. The only way you are going to get that woman to go in for treatment is if the service gets provided or referral for the service gets provided by the same people that she trusts enough to go to the treatment for. This bill will do that, it will accomplish that. It will provide the service.

This bill is not forever. If the Governor in the 114th comes back with a better package that will provide the service more efficiently and more effectively, I will certainly support it. But, for right now, I feel this bill does it much better than the department can or the Governor's plan can. I would certainly hope you would vote to override this veto so we can provide this service the only way it can be provided.

The SPEAKER: The pending question before the House is, shall this Bill "An Act to Establish Child Care Availability for Individuals in the Substance Abuse Treatment System" (H.P. 1612) (L.D. 2205) (C. "A" H-662) become law notwithstanding the objections of the Governor? Pursuant to the Constitution, the vote will be taken by the yeas and nays. This requires a two-thirds vote of the members present and voting. All those in favor of this Bill becoming law notwithstanding the objections of the Governor will vote yes; those opposed will vote no.

ROLL CALL NO. 296V

YEA - Aliberti, Allen, Anthony, Baker, Bost, Boutilier, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Daggett, Diamond, Dore, Duffy, Erwin, P.; Gould, R. A.; Gwadosky, Hale, Handy, Hickey, Hognlund, Holt, Hussey,

Jacques, Jalbert, Joseph, Ketover, KilKelly, LaPointe, Lisnik, Macomber, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Racine, Reeves, Richard, Ridley, Rotondi, Ruhlin, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Swazey, Tamaro, Tardy, Thistle, Tracy, Vose, Walker, Warren, The Speaker.

NAY - Anderson, Armstrong, Bailey, Begley, Bickford, Bragg, Brown, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Jackson, Lawrence, Lebowitz, Look, Lord, MacBride, Marsano, McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, Paradis, E.; Parent, Pines, Rand, Reed, Rice, Rolde, Salsbury, Seavey, Sherburne, Small, Stanley, Stevens, A.; Stevenson, M.; Strout, B.; Strout, D.; Taylor, Telow, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Bott, Callahan, Dutremble, L.; Gurney, Hillock, Kimball, Lacroix, Mahany, Nutting.

Yes, 81; No, 61; Absent, 9; Paired, 0; Excused, 0.

81 having voted in the affirmative and 61 in the negative with 9 being absent, the veto was sustained.

The following Communication: (H.P. 1947)
State of Maine
House of Representatives
Augusta 04333
April 26, 1988

John L. Martin
Speaker of the House
113th Legislature
Charles P. Pray
President of the Senate
113th Legislature

Dear Mr. Speaker and Mr. President:

On April 26, 1988, one Bill was received by the Clerk of the House.

Pursuant to the provisions of Joint Rule 14, this bill was referred to the Joint Standing Committee on April 26, 1988 as follows:

Taxation

Bill "An Act to Clarify the Sales Tax Exemption on Scheduled Airlines" (H.P. 1946) (L.D. 2641) (Presented by Representative CASHMAN of Old Town) (Cosponsors: Senator TWITCHELL of Oxford, Representatives JACKSON of Harrison and ZIRNKILTON of Mount Desert) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Sincerely,
S/Edwin H. Pert
Clerk of the House
S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file and sent up for concurrence.

The following Communication:
MAINE STATE LEGISLATURE
Augusta, Maine 04333
THE COMMISSION TO STUDY HEALTH SERVICES
IN PUBLIC SCHOOLS
April 22, 1988

President Pray
Speaker Martin

State House
Augusta, ME 04333

Dear President Pray and Speaker Martin:

The Commission to Study School Based Health Services is pleased to submit its report to the Legislature pursuant to P.L. 1987, c. 66.

Sincerely,
S/Sen. Mary-Ellen Maybury
Chair

Was read and with accompanying report ordered placed on file.

ORDERS

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

ORDERED, that Representative B. Carolyne T. Mahany of Easton be excused April 11, 12, 13 and 18 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Annette M. Hoglund of Portland be excused April 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Francis J. Perry of Mexico be excused April 20 and 21 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Kenneth L. Matthews of Caribou be excused April 13 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Alberta M. Wentworth of Wells be excused April 12 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Dale F. Thistle of Dover-Foxcroft be excused April 13 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Bradford E. Boutilier of Lewiston be excused April 11 and 12 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Dana C. Hanley of Paris be excused March 8 and 11 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative David G. Stanley of Cumberland be excused April 14 for legislative business.

AND BE IT FURTHER ORDERED, that Representative The one F. Look of Jonesboro be excused April 13 and 14 for personal reasons.

Was read and passed.

On motion of Representative MELENDY of Rockland, the following Joint Resolution: (H.P. 1948) (Cosponsors: Speaker MARTIN of Eagle Lake, President PRAY of Penobscot, and Senator BRAUN of Knox)

IN MEMORIAM

WHEREAS, the Legislature has learned with deep regret of the death of Louise Berliawsky Nevelson, formerly of Rockland, one of the world's best known artists and a pioneer creator of environmental sculpture; and

WHEREAS, known mainly for her wall sculptures, she built an empire as an artist and sculptor, resulting in a following not found elsewhere in modern art; and

WHEREAS, it was her command of darkness and deep shadow that captured the public imagination and brought mystery into sculpture; and

WHEREAS, "her creative spirit has transformed the fragments of a familiar world into sculptured wholes surprising, beguiling, demanding our visual appreciation" for generations to come; now, therefore, be it

RESOLVED: That, We the Members of the 113th Legislature of the State of Maine, now assembled in Second Regular Session, pause in our deliberations to reflect on the life of the late Louise Berliawsky Nevelson, a major artist with deep roots in Maine whose "reach far exceeded her grasp" and whose marvelous contributions have enriched the world; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted forthwith to the family and to the William A. Farnsworth Library and Art Museum, be made available for display, in token of sympathy and condolence to all who share this great loss and with further stipulation that, when the Legislature adjourns this date, it do so in honor and lasting tribute to the deceased.

Was read and adopted and sent up for concurrence.

The following items appearing on Supplement No. 10 were taken up out of order by unanimous consent:

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE
Later Today Assigned

Bill "An Act to Clarify the Application of the Resource Protection Law and the Site Location Law" (H.P. 1957) (L.D. 2651) (Presented by Representative MICHAUD of East Millinocket) (Cosponsors: Senators USHER of Cumberland, LUDWIG of Aroostook and Representative DEXTER of Kingfield)
(Committee on Energy and Natural Resources was suggested).

Under suspension of the rules, without reference to any committee, the Bill was read twice.

On motion of Representative Michaud of East Millinocket, tabled pending passage to be engrossed and later today assigned.

PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Amend the Shoreland Property Transfer Law" (Emergency) (H.P. 1958) (L.D. 2652) (Presented by Representative HOLLOWAY of Edgecomb) (Cosponsor: Representative MICHAUD of East Millinocket) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)
(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

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

The following items appearing on Supplement No 12 were taken up out of order by unanimous consent:

SENATE PAPERS
Later Today Assigned

Bill "An Act to Repeal from the Budget Bill the Provisions Concerning Municipal Shellfish Licenses" (S.P. 1010) (L.D. 2650)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

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

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: The Marine Resources Committee met earlier today and discussed this bill. At that

meeting, two members of the committee had reservations with the Bill, Representative Salsbury abstained from voting and Representative Scarpino said that he would not support the bill. The majority of the committee, I think, felt that it was an issue that should have been addressed by the Marine Resources Committee during the session, that it is a substantive policy issue and I think that it is clear that the issue will be addressed by that committee at the beginning of the next legislature.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Scarborough who is very much involved in this issue -- we have called him and he is on the way to the chamber. I would hope that someone would table this just for a few minutes or until later in the session.

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

Later Today Assigned

Bill "An Act to Return Certain Positions within the Department of Environmental Protection to Classified Service under the Civil Service Law" (S.P. 1009) (L.D. 2648)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

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

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: The State and Local Government Committee met earlier today on this piece of legislation. The original vote in committee was 11/1 with one member being absent. As the jacket was being signed, the final vote was 10/2 in favor of the bill "Ought to Pass" and I would move the House recede and concur with the Senate.

Under suspension of the rules and without reference to any Committee, the Bill was read twice.

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

The Chair laid before the House the following matter: Bill "An Act to Repeal from the Budget Bill the Provisions Concerning Municipal Shellfish Licenses" (S.P. 1010) (L.D. 2650) which was tabled earlier in the day and later today assigned pending reference.

Under suspension of the rules and without reference to any Committee, the Bill was read twice.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would ask for a roll call, Mr. Speaker, on passage to be engrossed.

I am not sure I can say anything more today, ladies and gentlemen of the House than I did ten days ago. I understand the frustration and the concern that the people from Brunswick have on this particular issue. However, I can assure you that the people who want to be able to dig clams in other municipalities other than their own share in a much bigger frustration, that is one of being able to be compensated and employed, working men and women of this state.

The concern that the people of my district have is that a lottery system will continue up and down the state and they will not be able to get licenses. It is the only group that I am aware of that would require or base a decision on whether they were employed or not strictly by chance. I think that is unfortunate. I think that these people should be able to go to the municipal town halls and if they want to wait in line to get a license, we should not (here in Augusta) be encouraging people to operate a lottery. I think we should be encouraging them to stand in line, if you will, and use their own devices to get that license.

There is a great possibility that additional people will enter the lottery in an attempt to dilute the potential impact of serious clam diggers getting their license. I hope you vote against the motion to engross.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: I am reluctant, obviously, to inflict upon this House one more speech about the Brunswick clam ordinance, but I feel I have got to.

What I want this House to understand is the basic objection that most of us have to what was done on the Appropriations bill was the lack of public input on this matter. There was no chance for people administering this lottery to come and talk to anyone up in Augusta. There was no chance for the people who administered this program in Brunswick to come up to Augusta to talk to the Marine Resources Committee.

This is a local control issue and Maine Municipal Association has recognized it as such. A program which was instituted by Brunswick, by one town, was unilaterally overruled by the legislature without any opportunity for the people in that town to come up and have their opinions heard.

I can tell you that it was extremely difficult for me and other members of the Brunswick Delegation to explain to the people, the voters of our town, what had happened and why it happened without anyone in the town knowing about it at the time it happened. The whole matter, frankly, left a bad taste in everyone's mouth.

What I would urge for all of us on all sides of this matter is that this ought to be dealt with in an open fashion at a public hearing with a complete chance for everyone to come in and speak on this issue. It ought not to be dealt with on the next to the last and last day of the session in a hurry without public input from those affected. So, I would urge you to support the motion.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: Strangely, I agree with the previous speaker. The only difficulty I have is understanding why he moved to support the motion. But yes, we should have a full public hearing on this. I agree. I think the next session of the legislature is the proper place to do it. I also think you should understand that when we first passed the first clam bill, the two inch clam law, and made the modifications in the town laws, it was the intent of the committee that the licenses be issued on a first-come, first-serve basis. It should also be understood that the lottery occurred in Brunswick because the municipality mismanaged the people who were standing in line and they ended up with two lines, both claiming to be there first. To prevent bloodshed, they held a lottery.

I also think we ought to realize the fact that there is no great pressing need for this bill. 90 percent of the towns, through local clam ordinances, have already issued their out-of-town licenses. There are no licenses to be issued for the rest of this year. If we pass this bill, however, what we will do is create the situation for any town with a concurrent ordinance to put in statute within their clam ordinances their own lottery. They could then circumvent the legislature by being grandfathered if next year if we decide to say, this is only on a first-come, first-serve basis.

Passing it now doesn't resolve a thing, all it does is give the municipalities the hole to get out of the responsibility they have to the rest of the people of this state even if it is only a ten percent responsibility on their clam resource.

The other thing you have to understand with this is that the towns have control of access to the flats, the resource. The clams are held (by this state) for the general good of the people of this state. When you buy a license, before you can get a town license, you have to have a state license. Okay, so you have a state license, this is the only thing in the state where if you have a state license, it doesn't qualify you to use that license any place in the state. Right now on the first-come, first-serve basis, if you were able to dig clams any place in this state, it would cost you in excess of \$4,000 in license fees. Do you know of anything else in this state that is going to cost you more than \$4,000 in license fees? On top of that, now you want to say \$4,000 in license fees and the luck of the draw, that is what your living depends on.

That happens to be my personal feeling but I agree with the gentleman from Brunswick, we ought to have a full legislative hearing on this, a full legislative hearing in order to be effective, a full legislative hearing in order to prohibit the towns to put in lottery ordinances prior to the hearing; otherwise, the hearing will be serving no purpose.

For that reason, if we want to maintain legislative intent, if we want to make sure everyone is treated equitably, if we want to make sure we don't leave any loopholes, the only thing we can do is kill this bill, let it continue, and then hold the hearings in the first session of the 114th.

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

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will support the motion to engross this piece of legislation. I do not enjoy speaking against a fellow legislator but I think we need to realize that the process that was used to implement the problem that is before us today was not correct. I apologize for not being here during that time. I have served on the Marine Resources Committee for four years and for four years we have talked about clams more than any person in this body (I am sure) wants to hear.

I would like to correct two errors. Lotteries are not held up and down the coast of Maine. Most communities, those non-resident licenses are simply purchased. But there is a problem, I would agree, in a community which had five licenses and there were six people who wanted them. So, in that particular community, the lottery system was chosen. I think it is inappropriate, the manner that was used to try and change the procedure. I think the next session of the legislature can deal with this in a much more democratic manner. I hope you will support the motion to engross this bill.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I realize there are a number of issues that have been brought up. I know the process has been under some fire for the way it was accomplished. I want to reiterate to the House two things. Number one, the people in my district are scared, they are scared to death that this lottery system is going to continue up and down the coast. The procedure of delaying doing anything would make that very difficult because to come back here in January and deal with that issue then, unless it could be passed on an emergency basis, wouldn't take effect until September of next year, which doesn't eliminate the problem. It would encourage people to adopt lottery systems. Okay, that is the first procedural problem that I foresaw in waiting and why it was attached to the budget bill.

The second issue that was brought up was no one had time for input. Well, certainly this House has debated it at great length and there has been a lot of input by many of us here. I will say again that I did speak with members of the committee prior to this and actually was informed by the House Chairman of the Committee that he didn't foresee a problem with it. I can't go on anything more than that.

I understand that since then there have been some changes in how he feels and how the members of his community feel. But, that is precisely the reason why I wanted to have this bill become law immediately. The Legislative Council had been sending numerous pieces of legislation down to us to include in the budget, because they did not want to be letting in more bills into the session. So, that is the sort of the backdrop of how it was included and why it was considered in that way. I thought I would touch base with a number of people. I do apologize and I have apologized openly to the people of Brunswick. I should have talked to them, I admit that, but honestly, it just didn't cross my mind and swear to God that is the truth.

That is the backdrop behind it. If this bill becomes law which negates the whole thing under the guise that we are going to deal with it next year, it is going to be too late. I offered an amendment here which was subsequently killed between the branches that would have grandfathered Brunswick's lottery system in. I don't like that but I understand the position that it puts the Brunswick people in. So, I was willing to compromise on that because my people are so concerned, not just with Brunswick, but that it will happen everywhere.

They don't offer a lottery system to those members of the community. If they want a license and they are a resident, I presume they wait in line. If they run out of licenses for residents, that is the way it goes, that is how it happens. It ought to be the same for the non-residents. I know that it is a problem for the town clerks and I know they don't like to have to worry about people being there at all hours of the day and night and this is a much more efficient system, but the government is not supposed to be efficient in many cases. We are not supposed to be expedient just because we want to eliminate having to deal with people who are rowdy, maybe, or who come there and wait all night because they want to work, not because they want to enjoy themselves at the civic center or something like that, it is because they want to work. They want to pay that money and earn a living breaking their backs.

I dare say, that if all of a sudden the civic center here in Augusta or in Portland or whatever,

whenever they had a big sellout concert, they started issuing tickets on a random lottery basis, people would be some upset because they will wait in line to get that ticket because they want to go to the concert or the hockey game or whatever it is that is in town. That is the way it ought to be.

I would hope that by voting against this, you would leave that provision in the law so that these people who want to make an honest day's pay can continue to do so. We can discuss it again next year. I think to eliminate that provision now eliminates the need at a later date for some other communities to want to deal in good faith to resolve the problem. I hope you vote against the pending motion.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Up until the budget bill was passed, all the towns in Maine had a right to sort of set up their own procedure for issuing licenses, the law was silent on how it was supposed to be done.

Representative Higgins' section on the budget bill does basically two things. The first thing it does is, it says the only way you can issue these licenses is a on a first-come, first-serve basis. The lottery is one way of doing it and the first-come, first-serve is another way of doing it. There may be another way of doing it that no one has thought of but, if his particular law stays on the books, that is the only way that any town will be able to do it.

In my town, I know that there was a three day wait for the licenses at the town hall and it was my town that had five licenses and six guys waited. If someone had an emergency in the family, they could have been at the town hall on Monday, they did wait for three days, if there had been an emergency in the family or someone had to leave, they would have to give up their space. So, it is not really the fairest way in the world, but an awfully lot fairer than the lottery.

The second part of the bill which I think most of the committee members and the Maine Municipal Association has found particularly onerous is a section of the bill that requires the town to send a letter out to everyone that had a license last year and tell them the procedure for getting a license this year. This is on top of a provision or requirement in the law that they post the procedure in the newspaper and another requirement in the law that the DMR collect all this information and purchase a full-page add in the Commercial Fisheries News twice a year telling how it is supposed to be done.

In my town, there were six people who wanted the five licenses. We cut back on licenses to both residents and non-residents. A few years ago, when our clams were more plentiful, we had about 160 licenses, that would allow 16 non-resident licenses but there aren't as many clams as there were and we had to cut back. This year, the Shellfish Commission decided that the flats could sustain 55 licenses, 50 for residents and five for non-residents. Six people showed up and we gave the licenses out on a first-come, first-serve basis just as Representative Higgins would have you do. There were six people there and five of them got licenses and the sixth person who didn't — now it is my understanding Representative Higgins, he is your constituent and he is just as upset that he didn't get that license having waited there three days as the guy at the lottery but there just weren't enough to go around.

Everyone can't dig clams, there are just not that many clams to go around.

I went to talk to the town clerk yesterday, the guy got angry, he had a little bit of a scene at the town hall, he threatened to sue the town, he got a lawyer, the lawyer called the town, threatened to sue the town, demanded to know why the town clerk couldn't issue more licenses. Her answer was, there are no more licenses to give. You have the same frustrations when you deal with them on a first-come, first-serve basis as you will get with the lottery. After that experience in Freeport, my town clerk said, there must be a better way to do this, maybe a lottery is a better way. Then we can set a time, say three o'clock in the afternoon on April 1st and people can all come into this room and they can all put a number in a hat or something and they will all be sitting there and they will all be here and we can decide then without having people sit and wait out in the cold for days and days and days.

I guess the facts are that there are just not enough clam licenses to go around to everyone in the state and some people don't have to get them. I just would like to say again that this is a bill that should have been dealt with by the Marine Resources Committee. Representative Higgins did come to me earlier in the session, about three or four weeks ago, and said that he was thinking of doing this. At the time, I didn't have very strong feelings on the subject. I talked to some members of the committee and Representative Higgins told me that if anyone on the committee objected, he wouldn't do it. I talked to three or four members, no one objected. Then I talked to Representative Coles who was sick for a week. Representative Coles said that he didn't think it was a good idea. I relayed that message to Representative Higgins about ten days before the end of the session when we still had a couple of weeks to go. I saw him downstairs at the lunch counter, I told him that Representative Coles didn't think it was a good idea to take the lottery option away from towns. At that time, Representative Higgins told me that he hadn't done anything on it so I didn't know whether the thing had disappeared or not but it did show up in the budget.

I hope, men and women of the House, that we can vote to engross this bill today.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Marine Resources Committee, I support my Chair. I did go in with a lot of questions in regard to the Scarborough problem. I understand that there is a serious problem there and I understand that there is a serious problem possibly with the lottery system. But, we took a lot of bantering around in the committee, we have come up with some ideas, maybe we can work them out. First-come, first-serve, maybe there is a way that you can have people find a notice when they come in or post some way that they can have a day when they specifically can come in for one day and do it. I mean, there are all kinds of ideas that we think maybe we can do this more fairly. Right now, it is not done as fairly as I would like to see it done. I represent the southern part of the state and I certainly want to take care of those people down there.

I have been here for a lot of years and I have heard about clams until they are coming out of our heads up here.

I think the committee has been fair about this. I think coming back to the committee next January, yes it will be an emergency bill, but I think we can

address it with more time and have more input from what is happening out there and make a better decision. Today we are rushing, we are making a terrible decision if we do this right away. I think we should go along with this bill, have some time to work on it, give some time for the clambers to come up and decide what they would like to do. I would hope that you would support the committee, the Marine Resources Committee, who has the knowledge of what we have been trying to do. I would appreciate that.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: You know how I feel about this, you heard me ten days ago when this was first presented. I have not changed my mind.

Let me tell you what has happened in the interim. This legislation has created terrific unrest all along the coast of Maine. Those of us who are here in the legislature are hearing it. We are getting feedback from those people.

It is true that there is a problem in many of the instances in some places where these licenses are being sold. I don't think that it is an issue that cannot be resolved. I fully support the proposals here, that we come back in the next session of the legislature and address this.

The Marine Resources Committee has looked at this intensely and I, for one, who has had probably more experience along the line of issuing licenses than anyone else in this House because I did it for years and I, too, have been confronted by the unrest among the clambers. It is not easy but I always felt that goes with the territory. When you are a public official, you have to cope with what is thrust at you. Remember, they are people that need serving but let's address it when we have time to look at it. This was done in haste, it was done on a one-issue basis, yet it has affected the entire coast of Maine. It is unfair to all the rest of the areas because it is going to put this unrest in the faces of every single conservation commission along this coast. I propose that you support the position of Representative Priest and what Representative Ketover has said and let's take care of this next year.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: First, let me say that I am not a clam digger commercially, never have been, don't intend to be. I have however, in the past, had the opportunity to do some clam digging but that was a long time ago. The inlanders, for all practical purposes, are now prohibited from digging clams along the coast of Maine.

The good gentleman from Scarborough indicated that the process met with my approval and he is quite correct, it did. The proposal was presented to us at the 11th hour and it was in the first proposal that came before the Appropriations Committee that did not have the time to go through the Legislative Council for proper introduction, printing, public hearing. This was not the only issue that came before us, there were several of them that came before us and they were all handled in the same fashion. It is not a new process. For as long as I have been on the Appropriations Committee, this has been happening year in and year out.

I have been sitting here listening to the debate and it is pretty obvious to me that there is a tremendous problem out there along the coast when it comes to clam digging. If we act hastily, I think we are not going to solve anything. I think what we have before us is a piece of legislation that is

going to create some problems. I think if you defeat this bill and allow the current law to serve as a moratorium, (if you will) when you come back here in January, you can rework this issue but in the meantime, let's leave things as they are and allow the legislature time to work on this problem. I would urge you to vote against this bill.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: The one thing that bothers me most in this bill is the fact that it has always been the custom and the privilege of towns involved in clam conservation to make their own ordinances under the direction of the Clam Conservation Commission. I would hope that could continue.

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

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I think we need a quick clarification. I am getting a little concerned as to where this debate is going, (a) if you engross this bill, it is going to stay basically the same, you are going to let the community decide whether that one little town has to have a lottery and all the rest of us just want to give them out on first-come, first-serve.

Secondly, there are now (I believe) 42 towns that have an ordinance and 41 of them just give it out first-come, first-serve. There is one problem out there, the committee recognizes it. I guarantee I have faith in my colleagues or most of you who will be here in the 114th that they will address this problem.

I urge you to support engrossment of this bill.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, let me explain what I indicated earlier. Currently, the law is as it was included in the budget. That budget bill has been signed by the Governor, it was an emergency piece of legislation and it currently is law. I suggest that you leave well enough alone. The present law, as included in the budget, is what you should go with. This bill should be sent to the deep six.

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

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

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

ROLL CALL NO. 297

YEA - Aliberti, Anthony, Baker, Bost, Boutilier, Brown, Carroll, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Dellert, Diamond, Dore, Erwin, P.; Farnum, Gould, R. A.; Gwadosky, Hale, Handy, Harper, Hepburn, Hichborn, Hickey, Hognlund, Holloway, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Look, Macomber, Manning, Martin, H.; Mayo, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Norton, Oliver, Paradis, J.; Paradis, P.; Perry, Pouliot, Priest, Rand, Reeves, Rice, Rolde, Rotondi, Ruhlin, Rydell, Small, Smith, Soucy, Stevens, A.; Stevens, P.; Strout, D.; Swazey, Tammaro, Telow, Thistle, Tupper, Vose, Wentworth, Weymouth, Whitcomb, The Speaker.

NAY - Allen, Anderson, Armstrong, Bailey, Begley, Bickford, Bragg, Carter, Curran, Daggett, Davis, Dexter, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Hanley, Higgins, Jackson, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Marsano, Matthews, K.; McGowan, McPherson, Murphy, E.; Murphy, T.; Nicholson, O'Gara, Paradis, E.; Parent, Paul, Pines, Reed, Richard, Salisbury, Scarpino, Seavey, Sheltra, Sherburne, Stanley, Stevenson, M.; Strout, B.; Tardy, Taylor, Tracy, Walker, Warren, Webster, M.; Willey, Zirkilton.

ABSENT - Bott, Callahan, Duffy, Dutremble, L.; Gurney, Hillock, Kimball, Lacroix, Mahany, Nutting, Racine, Ridley, Simpson.

Yes, 82; No, 56; Absent, 13; Paired, 0; Excused, 0.

82 having voted in the affirmative and 56 in the negative with 13 being absent, the Bill was passed to be engrossed in concurrence.

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

SECOND READER

Later Today Assigned

Bill "An Act to Clarify the Issuance of Securities by the Maine Court Facilities Authority" (Emergency) (H.P. 1953) (L.D. 2646)

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

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

(Off Record Remarks)

(At Ease to the Gong)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 14 was taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Resolution: (S.P. 1012)
JOINT RESOLUTION EXPRESSING THE SENTIMENT OF THE MAINE STATE LEGISLATURE THAT YOUTH CONNECTIONS BETWEEN THE UNITED STATES AND OTHER NATIONS SHOULD BE ENCOURAGED AND SUPPORTED BECAUSE THEY PROMOTE INTERNATIONAL PEACE AND UNDERSTANDING

WHEREAS, international youth connections permit young people of different nations to interact through exchanges, meetings and conferences; and

WHEREAS, international youth connections allow young people to gain a greater awareness and understanding of global issues; and

WHEREAS, in their December 1987 post-summit addresses, both President Reagan and General Secretary Gorbachev acknowledged that young people must be informed about and involved with the issues affecting the world today; and

WHEREAS, Maine competes in an international economy linking our prosperity with our knowledge and understanding of the world and our ability to compete in the international marketplace; and

WHEREAS, a more comprehensive understanding of global issues will inspire young people to become more involved and concerned citizens; and

WHEREAS, given the increasingly interdependent economic, political and social nature of the world, young people need a global perspective to make

informed decisions on issues affecting their generations; now, therefore, be it

RESOLVED: That We, the Members of the 113th Legislature, now assembled in the Second Regular Session, consider it the policy of this State to encourage and support, at all levels of government, youth connections among Maine, the United States and other nations; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted forthwith to the Honorable John R. McKernan, Jr., Governor of the State of Maine, and to the Maine Congressional Delegation.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

The following item appearing on Supplement No. 11 was taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Amend the Education Laws" (H.P. 1959) (L.D. 2654) (Presented by Representative SMITH of Island Falls) (Cosponsors: Representatives MATTHEWS of Caribou and HANDY of Lewiston) (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 Education)

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

The following items appearing on Supplement No. 15 were taken up out of order by unanimous consent:

FINALLY PASSED

Emergency Measure

RESOLVE, to Revise the Kennebec County Budget to Reflect an Increase the the Surplus Account (H.P. 1951) (L.D. 2644)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

ENACTOR

An Act Concerning Relocation of the Maine Emergency Management Agency Radiological Calibration Facility (H.P. 1956) (L.D. 2649)

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

On motion of Representative Norton of Winthrop, under suspension of the rules, the House reconsidered its action whereby L.D. 2649 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-791) and moved its adoption.

House Amendment "A" (H-791) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-791) in non-concurrence and sent up for concurrence.

The following item appearing on Supplement No. 17 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Clarify Milk Pricing Laws as They Relate to Over-Order Premiums (H.P. 1952) (L.D. 2645)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following items appearing on Supplement No. 18 were taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act Concerning Intermediate Care Facilities for the Mentally Retarded" (H.P. 1960) (L.D. 2655) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Senators PEARSON of Penobscot, BUSTIN of Kennebec and Representative DAVIS of Monmouth) (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 Appropriations and Financial Affairs)

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

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

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

ORDERS OF THE DAY

BILL RECALLED FROM LEGISLATIVE FILES

(Pursuant to Joint Order - House Paper 1955)

RESOLVE, to Establish the Commission to Study the Management of Water Resources in Maine (H.P. 1822) (L.D. 2497)

On motion of Representative Vose of Eastport, the Bill and all accompanying papers were indefinitely postponed. Sent up for concurrence.

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Clarify the Issuance of Securities by the Maine Court Facilities Authority" (Emergency) (H.P. 1953) (L.D. 2646)

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

Representative Carter of Winslow offered House Amendment "B" (H-789) and moved its adoption.

House Amendment "B" (H-789) was read by the Clerk and adopted.

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

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Return Certain Positions within the Department of Environmental Protection to Classified Service under the Civil Service Law" (S.P. 1009) (L.D. 2648) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Carroll of Gray offered House Amendment "A" (H-792) and moved its adoption.

House Amendment "A" (H-792) was read by the Clerk.

Representative Murphy of Kennebec requested a roll call on adoption of House Amendment "A."

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

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

The SPEAKER: The pending question before the House is adoption of House Amendment "A." Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 298

YEA - Boutilier, Carroll, Clark, H.; Coles, Conley, Cote, Dellert, Diamond, Dore, Gould, R. A.; Gwadosky, Handy, Hickey, Hogle, Jacques, Ketover, LaPointe, Look, Macomber, Manning, Mayo, McHenry, McSweeney, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Norton, O'Gara, Oliver, Paradis, J.; Perry, Pouliot, Priest, Reeves, Richard, Rolde, Rydell, Scarpino, Simpson, Smith, Stevens, A.; Stevens, P.; Swazey, Telow, Tracy, Vose, Walker, The Speaker.

NAY - Anderson, Armstrong, Bailey, Begley, Bragg, Carter, Cashman, Chonko, Crowley, Curran, Davis, Dexter, Farnum, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Hanley, Harper, Hichborn, Higgins, Holloway, Jackson, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Marsano, Matthews, K.; McGowan, McPherson, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Paradis, E.; Pines, Reed, Rice, Salsbury, Seavey, Sherburne, Small, Stevenson, M.; Strout, B.; Strout, D.; Tardy, Taylor, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT - Aliberti, Allen, Anthony, Baker, Bickford, Bost, Bott, Brown, Callahan, Clark, M.; Daggett, Duffy, Dutremble, L.; Erwin, P.; Gurney, Hale, Hepburn, Hillock, Holt, Hussey, Jalbert, Joseph, Kil Kelly, Kimball, Lacroix, Mahany, Martin, H.; Melendy, Nutting, Paradis, P.; Parent, Paul, Racine, Rand, Ridley, Rotondi, Ruhlin, Sheltra, Soucy, Stanley, Tamaro, Thistle, Warren.

Yes, 50; No, 58; Absent, 43; Paired, 0; Excused, 0.

50 having voted in the affirmative and 58 in the negative with 43 being absent, the motion did not prevail.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: Speaking as the Representative from Kennebec and someone who very much respects and honors the committee process, there is a pattern developing in this continuation of this second regular session. We have been dealing with loose ends in terms of bills and amendments, we have been dealing with the vetoes which was the reason we are here and there is also a disturbing third trend in terms of redoing the budget. We are beginning to see bills coming before us that are reshaping or redoing that. I am someone who is very supportive of that

committee process and I think we see here an effort to redo or undo something that was part of the budget and I would think that somewhere here, unless we are going to take the next week or two to try and second-guess the bipartisan members of the Appropriations Committee, that we ought to defeat this bill, concentrate on dealing with the loose ends and the vetoes. Mr. Speaker, I would request a roll call.

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

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

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: I am honored and I am flattered that I hear the committee process mentioned. I think this whole entire process lets the process revolve around the integrity of the committee process. There is no way that this bill is trying to scuttle any committee process. In fact, it is enhancing that process because in the first regular session of the 113th, this very bill appeared before State and Local Government and it was withdrawn with the unanimous support of the committee because there was a lot of problems with it. I didn't find out that this particular part was in the budget until two days ago. It was brought to my attention, we requested the bill to be put in, the council let it in this morning on a bipartisan vote of that body, 6 to 4.

In committee this morning, we talked about the committee process and, at that time, 11 of those members present agreed that this was not the appropriate way to declassify positions in state government, that we should have a public hearing, that we should look at the process in the light of day, not in the dark of night. No one on the committee was totally upset with the process of the Appropriations Committee. What we didn't understand was how come no one on my committee that deals with declassification of the state employees knew that it was going on or had any idea that it was going on?

All we are asking with this bill is that we have a public hearing and that those 6 positions be looked at in a public hearing so we can get the expert testimony of the Joint Standing Committee that has the expertise that deals with DEP, that we get the expert opinion of all those players involved from the environmental groups, from the department itself and for those on State and Local Government who have some knowledge in state employee matters. That is the committee process, that is what we are asking for, it is that simple, it is that plain.

I would suggest to the members of the House that we are honoring the committee process. The bill was withdrawn, a similar bill dealing with declassification was worked out by the committee in the first session and now we are dealing with 6 out of 18 division heads. Nowhere else in state government have we declassified state employees at that level, have we dipped that low in the process. These are long-termed employees and I understand there are problems with that department. I would dare say that there is not a member of this body who hasn't had a problem with the Department of Environmental Protection in getting results.

I would urge this body to support this bill and pass it on for engrossment so we might get these

people a fair hearing and put the committee process back on the right track

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

Representative CARTER: Mr. Speaker, Men and Women of the House: My good friend, Representative Carroll, has indicated to members of this body that there are problems with this department and I have to wholeheartedly agree with him. We have been hearing complaints about this department for quite a number of years.

Last year, there was a study done by Pete Mowick and there has been an awfully lot of reclassifications achieved through that department. The Pete Mowick report recommended adding additional personnel (and I believe the number that we have added into the budget is around 30) and the Appropriations Committee is quite concerned about the operations of the DEP. We are so concerned, as a matter of fact, that we have included within the budget an advisory committee to assist the Department of Environmental Protection in reorganizing and implementing some of these Pete Mowick recommendations.

This bill is one that only enhances good government. Currently, if you do not do anything, you are going to have what is equivalent to a 7 headed dragon within DEP. You have 6 bureau directors who are independently operating from the commissioner, which is equivalent to a 7 headed dragon.

The Appropriations Committee has attempted to turn this around and make it a 1 headed dragon, which is the normal process.

I would move that this bill and all its accompanying papers be indefinitely postponed and I would request a division.

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: I glanced quickly at the study that the fine Chairman of the Appropriations Committee alluded to to see if anywhere this declassification issue has arisen. I can't find it anywhere at all. He and I talked earlier today about the 7 headed dragon and I told him that I would try to work that through in my mind. I guess the only solution I have to a 7 headed dragon is, there are I think, 18 division heads in that department and how come only 6 of these are being declassified? I think we are striking out at windmills, not trying to slay dragons here. I think if we are going to do the process, we should do it right, we should do it through a public hearing, we should do it through the committee process that is being alluded to over and over again. I would urge this body, once again, to defeat the motion to indefinitely postpone.

I would request the yeas and nays.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Winslow, Representative Carter, that L.D. 2648 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 299

YEA - Aliberti, Anderson, Armstrong, Bailey, Begley, Bragg, Carter, Cashman, Chonko, Curran, Davis, Dexter, Farnum, Farren, Foss, Foster, Garland, Glidden, Greenlaw, Hanley, Harper, Hepburn, Hichborn, Higgins, Holloway, Jackson, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Marsano, Matthews, K.; McGowan, McPherson, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Nutting, Paradis, E.; Paradis, J.; Pines, Reed, Rice, Salsbury, Seavey, Sherburne, Small, Soucy, Stevenson, M.; Strout, B.; Strout, D.; Tardy, Taylor, Telow, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAY - Allen, Anthony, Baker, Boutilier, Carroll, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Dellert, Diamond, Dore, Duffy, Gould, R. A.; Gwadosky, Hale, Handy, Hickey, Hoglund, Jacques, Jalbert, Joseph, Ketover, LaPointe, Look, Macomber, Manning, Martin, H.; Mayo, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Norton, O'Gara, Oliver, Paradis, P.; Perry, Pouliot, Priest, Rand, Richard, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Simpson, Smith, Stevens, A.; Stevens, P.; Swazey, Tamaro, Thistle, Tracy, Vose, Walker.

ABSENT - Bickford, Bost, Bott, Brown, Callahan, Daggett, Dutremble, L.; Erwin, P.; Gurney, Hillock, Holt, Hussey, Kilkelly, Kimball, Lacroix, Mahany, Parent, Paul, Racine, Reeves, Ridley, Sheltra, Stanley, Warren, The Speaker.

Yes, 63; No, 63; Absent, 25; Paired, 0; Excused, 0.

63 having voted in the affirmative and 63 in the negative with 25 being absent, the motion did not prevail.

Subsequently, the Bill was passed to be engrossed in concurrence.

The following item appearing on Supplement No. 13 was taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Clarify the Sales Tax Exemption on Scheduled Airlines" (H.P. 1946) (L.D. 2641)

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

Representative Cashman of Old Town offered House Amendment "B" (H-793) and moved its adoption.

House Amendment "B" (H-793) was read by the Clerk.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: We deliberated on this bill in the Taxation Committee yesterday and many of us felt and I still have some feelings that a fiscal note is not necessary on this bill seeing how the action has been paid for once. However, there has been concern expressed by some members of this body and by the Governor that the bill needs a fiscal note. Therefore, I offer this amendment to place a fiscal note on it.

The fiscal note is paid for by a one-time transfer from the Rainy Day Fund. I don't take credit for that idea really, that stemmed from the second floor and I have been given assurance from the Governor's Office that if this bill gets down there with this amendment on it, he will sign it.

The SPEAKER: The Chair would remind the Representative that he may not refer to the actions of the Governor or the other branch.

Representative CASHMAN: Thank you Mr. Speaker. I would urge the House to adopt this amendment.

Representative Mayo of Thomaston requested a roll call.

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

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

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I want to commend the Chairman of the Committee. We have come a long way since yesterday afternoon when the committee report had come up and said there was no need for a note even though we all knew that that \$1.2 or \$1.3 million was included in the estimates and we were going to have an unbalanced budget. We have come a long way, we recognize that it is the legislature's (and as a gentleman on another floor had indicated) decision in terms of granting or reaffirming this exemption but the legislature was going to have to pay for it along some route.

The amendment does offer going to the Rainy Day Fund and that, obviously, would not be my first personal choice but it is an acknowledgment of following good fiscal policy.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I hope before we vote on this proposed amendment, we consider what I consider a very critical sentence. On line 26 of the first page, there is a sentence notwithstanding MRSA Title 5, Section 1513 etcetera, etcetera — what that essentially does, ladies and gentlemen, is that it says, regardless of what the previous ground rules were regarding the Rainy Day Fund, (if you want to fool around with the Rainy Day Fund, that is going to take a two-thirds vote and we all agreed to that at one point) this sentence is saying that that doesn't count anymore. We just need a simple majority. I am going to ask you, very seriously, is this so critical that we want to establish this important precedent, something that has never been done before, changes the rules of the Rainy Day Fund, for this one-time (and I will use the term) tax pardon?

As I mentioned in my earlier speech, this essentially is a tax liability that is now trying to be handled. Some people have argued the intent, some people have argued that there is malicious feeling of some, not necessarily of this body, some people in some of the private conversations I have had have expressed great concerns about economic development, economic activities, in their part of the state. To those people I would say, this bill has nothing. I would like to emphasize.....

The SPEAKER: The Chair would advise the Representative that we are only dealing with the amendment which specifically deals with the fiscal note. The Chair would ask the Representative to confine his remarks to that amendment.

Representative NADEAU: Mr. Speaker, thank you. As I was saying, this amendment talks about taking money from the Rainy Day Fund against what most of us established a Rainy Day Fund to do in the first place.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: I hardly thought that the Rainy Day Fund would ever come to this use but apparently it has. I think that is unfortunate. I said it before

and I will say it again, I hardly think that the Rainy Day Fund should be used for corporate welfare.

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I have to echo the words of the previous speaker that I hardly thought the Rainy Day Fund would ever come to this use either. However, this legislator has spent practically the entire afternoon trying to write and come up with an alternative. As you may have noticed on your desk earlier today, I offered an amendment that originally added a fiscal note to this bill because this has been a concern. Frankly, a better alternative has not been found. We have had any number of state employees and myself and people on the second floor working on a better alternative.

The bottom line again is, as we stated in the earlier vote, we have an obligation. We made an obligation several years ago. This legislature must now live up to that obligation and it must live up to it with a financial commitment. This Representative is very uncomfortable going to the Rainy Day Fund, but frankly, we haven't come up with a better alternative. The Rainy Day Fund at this point is the only fiscally responsible solution to a problem that this legislature created, a problem that I don't see as necessarily a problem, but it made a decision to benefit the overall good of the people of Maine. We were reaffirmed of that a few hours ago and now we must live up to our commitment with funding. The vote tonight is a final vote yes or no, do we live up to our commitment? I urge your support of the amendment.

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

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

Could someone tell me how much is in the Rainy Day Fund right now?

The SPEAKER: The Chair would advise the Representative that it will automatically return to the total amount on July 1, 1988 regardless of what the amount is at this time, pursuant to the law.

The Chair would also advise members of the House, pursuant to House Rule 1, the Chair feels the need to explain the remarks that I made yesterday in reference to the need of a fiscal note.

I implied and I made it clear that I saw no need for a fiscal note to be added to this bill. Since the time to discuss a fiscal note is now, I want it on the Record to make it clear that I specifically asked the Bureau of the Budget to provide me with the documentation under which the figures had been added into the budget on December of last year. The Bureau of the Budget has been unable to provide me with those figures. If I were to make a ruling on the fiscal note, I would rule that no fiscal note is in fact required. However, one is being added and that is obviously the pleasure of this body.

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: About two weeks ago, we all sat here and talked about a number of different issues. One of those issues happened to be an issue dealing with the Certificate of Need account. I certainly wished at that time that we could have funded the Certificate of Need account, the full account of \$17.5 million and I wish I had known we had this much money floating around in the Rainy Day Fund and we were going to use the Rainy Day Fund the way we are using it. I think it is ironic that just

about two weeks ago, a number of us saw a number of bills that we worked on very hard, very long, get killed because there wasn't enough money in the state budget....

The SPEAKER: The Chair would advise the Representative to please to confine his remarks as to the need for the fiscal note and the fiscal note that is presently being suggested.

Representative MANNING: Mr. Speaker, I would hope we would not vote for this amendment and I would hope that we would think about what we have done in the past.

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

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to suggest that this is a violation of the Rainy Day Fund and for that reason, I am not going to vote for it. I think it is a four syllable word notwithstanding and we are violating it in two ways. One, we are not looking for two-thirds vote. Two, it is not going for the uses for which the good Representative from Winslow, Representative Carter, intended when he first came up with the idea of a Rainy Day Fund.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "B" (H-793). Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 300

YEA - Aliberti, Anderson, Armstrong, Boutilier, Cashman, Conley, Cote, Crowley, Curran, Dexter, Diamond, Duffy, Farnum, Garland, Glidden, Gould, R. A.; Greenlaw, Hale, Hanley, Hichborn, Hickey, Holt, Jackson, Jalbert, Ketover, Lebowitz, Lisnik, MacBride, Marsano, Martin, H.; Matthews, K.; McGowan, McSweeney, Michaud, Moholland, Murphy, E.; Nadeau, G. G.; Nicholson, Norton, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Pines, Pouliot, Richard, Rolde, Ruhlman, Salsbury, Scarpino, Seavey, Sherburne, Stevens, A.; Stevens, P.; Stevenson, M.; Swazey, Tammaro, Tardy, Vose, Walker, Wentworth, Weymouth, Whitcomb, Zirkilton, The Speaker.

NAY - Allen, Anthony, Bailey, Baker, Begley, Bragg, Carroll, Carter, Clark, H.; Clark, M.; Coles, Davis, Dellert, Dore, Farren, Foss, Foster, Gwadosky, Handy, Harper, Hepburn, Higgins, Hoggund, Holloway, Jacques, Joseph, Kilkelly, LaPointe, Lawrence, Look, Lord, Macomber, Manning, Mayo, McHenry, Melendy, Mills, Mitchell, Murphy, T.; Nadeau, G. R.; Nutting, Oliver, Perry, Priest, Rand, Reed, Rice, Rotondi, Rydell, Simpson, Small, Smith, Soucy, Strout, B.; Strout, D.; Taylor, Telow, Thistle, Tracy, Tupper, Webster, M.; Willey.

ABSENT - Bickford, Bost, Bott, Brown, Callahan, Chonko, Daggett, Dutremble, L.; Erwin, P.; Gurney, Hillock, Hussey, Kimball, Lacroix, Mahany, McPherson, Parent, Paul, Racine, Reeves, Ridley, Sheltra, Stanley, Warren.

Yes, 65; No, 62; Absent, 24; Paired, 0; Excused, 0.

65 having voted in the affirmative and 62 in the negative with 24 being absent, House Amendment "B" was adopted.

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

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

The following items appearing on Supplement No. 21 were taken up out of order by unanimous consent:

SENATE PAPERS

The following Communication:
Maine State Senate
Augusta, Maine 04333

May 4, 1988

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

Dear Clerk Pert:

Senate Paper 889 Legislative Document 2301, An Act to Enhance Outdoor Recreation Opportunities, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?" 15 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 3 Senators absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Amend the Law Relating to the Land for Maine's Future Board" (S.P. 1011) (L.D. 2653) Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

Under suspension of the rules and without reference to any Committee, the bill was read twice and passed to be engrossed in concurrence.

The following items appearing on Supplement No. 20 were taken up out of order by unanimous consent:

SENATE PAPERS

The following Communication:
Maine State Senate
Augusta, Maine 04333

May 4, 1988

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

Dear Clerk Pert:

Senate Paper 947 Legislative Document 2501, An Act to Clarify and Correct Errors and Omissions and to Improve the Laws Relating to Education, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?" 18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 3 Senators absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 3 Senators absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

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

Was read and ordered placed on file.

The following Communication:
Maine State Senate
Augusta, Maine 04333

May 4, 1988

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

Dear Clerk Pert:

Senate Paper 956 Legislative Document 2531, An Act To Promote the Prompt and Peaceful Settlement of Labor Disputes, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?" 19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
Maine State Senate
Augusta, Maine 04333

May 4, 1988

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

Dear Clerk Pert:

Senate Paper 975 Legislative Document 2589, An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?" 20 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 3 Senators absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

20 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 3 Senators absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:
Maine State Senate
Augusta, Maine 04333

May 4, 1988

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

Dear Clerk Pert:

Senate Paper 1003 Legislative Document 2637, An Act Concerning Storage Of Radioactive Material in Public Buildings, having been returned by the Governor together with his objections of the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?" 10 Senators having voted in the affirmative and 22 Senators having voted in the negative, with 3 Senators absent, accordingly, it was the vote of the Senate that the Bill not become law and the veto was sustained.

Sincerely,
S/Joy J. O'Brien
Secretary of the Senate
Was read and ordered placed on file.

The following item appearing on Supplement No. 19 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Repeal from the Budget Bill the Provisions Concerning Municipal Shellfish Licenses (S.P. 1010) (L.D. 2650)

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

The SPEAKER: The Chair will order a division. The pending question before the House is enactment. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

65 having voted in the affirmative and 48 in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 22 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Shoreland Property Transfer Law (H.P. 1958) (L.D. 2652)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and one against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 16 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Change the Effective Date for HIV Counseling" (H.P. 1954) (L.D. 2647) which was referred to the Committee on Human Resources in the House on May 4, 1988.

Came from the Senate indefinitely postponed in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 28 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Clarify the Issuance of Securities by the Maine Court Facilities Authority (H.P. 1953) (L.D. 2646) (H. "B" H-789)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following items appearing on Supplement No. 27 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act Concerning Relocation of the Maine Emergency Management Agency Radiological Calibration Facility (H.P. 1956) (L.D. 2649) (H. "A" H-791)

An Act Concerning Intermediate Care Facilities for the Mentally Retarded (H.P. 1960) (L.D. 2655)

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

The following items appearing on Supplement No. 26 were taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Make Necessary Changes to Implement Comprehensive Land Use Planning" (Emergency) (H.P. 1950) (L.D. 2643) which was passed to be engrossed in the House on May 4, 1988.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-547) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Amend the Education Laws" (H.P. 1959) (L.D. 2654) which was passed to be engrossed in the House on May 4, 1988.

Came from the Senate failing of passage to be engrossed in non-concurrence.

The House voted to insist.

The following item appearing on Supplement No. 25 was 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. 1949) (L.D. 2642) Bill "An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-795)

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

The Chair laid before the House the following item: Bill "An Act to Clarify the Application of the Resource Protection Law and the Site Location Law" (H.P. 1957) (L.D. 2651) (Presented by Representative MICHAUD of East Millinocket) (Cosponsors: Senators USHER of Cumberland, LUDWIG of Aroostook and

Representative DEXTER of Kingfield) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Michaud of East Millinocket offered House Amendment "A" (H-794) and moved its adoption.

House Amendment "A" (H-794) 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.

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

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 29 was taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE

Bill "An Act Correcting Additional Errors and Inconsistencies in the Laws of Maine" (Emergency) (H.P. 1962) (L.D. 2657) (Presented by Representative PARADIS of Augusta) (Cosponsor: Senator BRANNIGAN of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(The Committee on Reference of Bills had suggested reference to the Committee on Judiciary.)

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

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

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 24 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Amend the Law Relating to the Land for Maine's Future Board (S.P. 1011) (L.D. 2653)

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.

(Off Record Remarks)

On motion of Representative Lebowitz of Bangor, Adjourned until Thursday, May 5, 1988, at nine o'clock in the morning in memory of Lloyd E. Littlefield of Hermon, a former legislator.

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

In Senate Chamber
Wednesday
May 4, 1988

Senate called to Order by the President.

Prayer by the Honorable Edwin C. Randall of Washington.

SENATOR RANDALL: Let us pray. Oh Lord Who has brought us to the beginning of another day we give You thanks that we are here at this time and are assembled to do the work which lies before us. We would ask that at the close of this a reflection might be made, reflection being well done Thy good and faithful servants. In His name we pray. Amen.

Reading of the Journal of Thursday, April 21, 1988.

Off Record Remarks

COMMUNICATIONS

The Following Communication:
THE COMMISSION TO STUDY HEALTH SERVICES
IN PUBLIC SCHOOLS
April 22, 1988

President Pray
Speaker Martin
State House
Augusta, ME 04333

Dear President Pray and Speaker Martin:

The Commission to Study School Based Health Services is pleased to submit its report to the Legislature pursuant to P.L. 1987, c.66.

Sincerely,
S/Sen. Mary-Ellen Maybury
Chair

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

TO: The Honorable Members of the 113th Maine Legislature

I am returning without my signature or approval, S.P. 947, L.D. 2501, AN ACT to Clarify and Correct Errors and Omissions and to Improve the Laws Relating to Education."

A Conference Committee amendment was added to this bill which significantly delays full implementation of the 1984 teacher certification laws and related rules for presently employed teachers. This is, in my judgment, a dramatic step backward in the intent of the legislation passed by the 111th Legislature and in the rules promulgated by the State Board of Education.

The current teacher certification law upgraded and strengthened the requirements for teacher certification in Maine in many substantive ways. It provided a four-year time period for the State Board of Education to pilot several aspects of the law and to promulgate rules to implement the law. Those tasks have been successfully completed and the rules were adopted by the Board on March 30, 1988. They are the result of four years of study, piloting,