

MAINE STATE LEGISLATURE

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

In Senate Chamber
Wednesday
February 25, 1998

Senate called to order by President Mark W. Lawrence of York County.

Prayer by Reverend Ronald Libby of the Charleston Pentecostal Church.

REVEREND RONALD LIBBY: Thank you. It's a real joy to be back with you this morning. I appreciate the fine job that you folks do in this chamber. I appreciate the hours of labor, concern for our state and for all that you do to represent us, the wisdom that you exercise and the many challenges that you face. We've got a great state and I appreciate it, and you've helped to make it such. Every once in a while we're like the two ladies that were in the rest home. They were elderly. Two older gentlemen had a room across the hall. One afternoon one of the older ladies said to the other, "Do you remember when they used to streak?" And the other lady said, "Oh yes, I've done that, a long time ago." She said, "It's awful boring here this afternoon. Let's do it." So, they closed the door, did what they needed to do to exercise this little event called streaking. All of a sudden the door opened, the two ladies came out, went down the corridor as fast as they could go. Ned looked at Ted on the opposite side of the hall and said, "Ted, what was that?" Ted said, "I'm not sure, but it sure looked to me like it needs a lot of ironing." They may not be a good illustration, but every once in a while our state needs some ironing. And you are the people that do it and I want you to know, as one, that I appreciate it. I appreciated the opportunity and invitation from Stephen Hall to be here again. Thank you and I want to pray God's blessing on you today. Let us pray together.

Heavenly Father, we thank You that, first of all, we have been recipients of the great blessings of God through the years. We thank You for the wisdom that you've given great people that have served in this chamber. And we praise You today that our confidences in One that will not fail to give wisdom and understanding to these who serve today. It's our desire, dear Lord, that your will be done in our lives and in our great state. So will You lead them today and grant them the wisdom that they need. And those that lead them, I pray your special blessing upon them and that You will continue to stretch forth your great hand with blessings upon this state and upon our nation. We thank You for it all. In Thy wonderful name we pray. Amen.

Doctor of the Day, Ann Hanlon, M.D., Hampden.

Reading of the Journal of Tuesday, February 24, 1998.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Pursuant to Resolve
Task Force on Registration of In-home Personal Care and Support Workers

The Task Force on Registration of In-home Personal Care and Support Workers, pursuant to Resolve 1997, chapter 29, asked leave to report that the accompanying Bill "An Act to Implement the Recommendations of the Task Force on Registration of In-home Personal Care and Support Workers" H.P. 1602 L.D. 2228

Be REFERRED to the Committee on HEALTH AND HUMAN SERVICES and ordered printed pursuant to Joint Rule 218.

Comes from the House with the Report READ and ACCEPTED and the Bill REFERRED to the Committee on HEALTH AND HUMAN SERVICES and ordered printed pursuant to Joint Rule 218.

Report READ and ACCEPTED, in concurrence.

REFERRED to the Committee on HEALTH AND HUMAN SERVICES and ordered printed pursuant to Joint Rule 218, in concurrence.

COMMUNICATIONS

The Following Communication: S.C. 555

STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
STATE HOUSE STATION 42
AUGUSTA, MAINE 04333

February 18, 1998

Joy O'Brien
Secretary of the Senate
3 State House Station
Augusta, Maine 04333

Dear Ms. O'Brien:

Please find enclosed a copy of the Maine Drug Control, Violence Prevention, and System Improvement Strategy 2nd Year Up-Date and revised workplan submitted to the Bureau of Justice Assistance for funding of the FY 98 Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program.

The program requires that the application and strategy be submitted to the State Legislature or its designated body for review. Unless I receive further instructions, I will consider that the Department of Public Safety has fulfilled its obligation in this area.

Sincerely,

S/Col. Malcolm T. Dow
Commissioner

READ and with accompanying papers **REFERRED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS**.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

From the Committee on **MARINE RESOURCES** on Bill "An Act to Make a Nonresident Municipal Shellfish License Fee No More than 1 1/2 Times the Resident Fee"
H.P. 1505 L.D. 2127

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-800)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-800)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-800) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

From the Committee on **UTILITIES AND ENERGY** on Bill "An Act to Amend Review Criteria Used by the Public Utilities Commission"
H.P. 1423 L.D. 1987

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (H-803)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-803)**.

Report **READ** and **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-803) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

Majority of the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act to Make the State Board of Education Elected"
H.P. 962 L.D. 1325

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

PENDLETON of Cumberland
CATHCART of Penobscot
SMALL of Sagadahoc

Representatives:

RICHARD of Madison
BRENNAN of Portland
DESMOND of Mapleton
WATSON of Farmingdale
BAKER of Bangor
BARTH of Bethel
McELROY of Unity
BELANGER of Caribou

Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-801)**.

Signed:

Representatives:

SKOGLUND of St. George
STEDMAN of Hartland

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **PENDLETON** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Senate

Ought to Pass As Amended

Senator **RUHLIN** for the Committee on **TAXATION** on Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory
S.P. 699 L.D. 1933

Reported that the same **Ought to Pass As Amended by Committee Amendment "A" (S-467)**.

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-467) **READ** and **ADOPTED**.

TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House As Amended

Bill "An Act to Appropriate Funds to Build a Memorial and to Name a Highway in Burnham in Honor of Medal of Honor Recipient Corporal Clair Goodblood" H.P. 1418 L.D. 1982 (C "A" H-799)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Senate As Amended

Bill "An Act to Correct Errors and Inconsistencies in Licensing Requirements for Licensed Insurance Professionals and Insurers" S.P. 756 L.D. 2034 (C "A" S-462)

READ A SECOND TIME and PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

ENACTORS

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

Emergency Measure

An Act to Restore the Requirement That Certain Expenditures of the Waldoboro Utility District Be Approved by District Vote H.P. 1382 L.D. 1937

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than 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.

Emergency Measure

An Act Concerning Elver Fishing S.P. 736 L.D. 2014 (C "A" S-454)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with no Senators having voted in the negative, and 30 being more than 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.

Mandate

An Act to Amend the Charter of the Bingham Water District H.P. 1426 L.D. 1990 (C "A" H-791)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 31 Members of the Senate, with no Senators having voted in the negative, and 31 being more than 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.

Act

An Act Regarding Contract Procedures S.P. 770 L.D. 2071

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

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment had preference in the Orders of the Day and continued with such preference until disposed of as provided by Senate Rule 516.

The Chair laid before the Senate the following Tabled and Later (2/24/98) Assigned matter:

SENATE REPORTS - from the Committee on **MARINE RESOURCES** on Bill "An Act Concerning Commercial Fishing in the Vicinity of Monhegan Island" (EMERGENCY) S.P. 743 L.D. 2021

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-464)** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-465)** (4 members)

Tabled - February 24, 1998 by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, February 24, 1998, Reports **READ**.)

Senator **GOLDTHWAIT** of Hancock moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-464)** Report.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. It is a pleasure to finally have the opportunity to address this bill. I was tempted to introduce everybody in the chamber as my shadow this morning, but I'll restrain myself from that.

I want to start by just mentioning an incident that happened at a fisheries meeting that I went to a while back, down in my part of the state. It was an issue on which the fishermen had asked me to come out and give them some information and I was glad to do that. All of the fishermen in that community were there except for one. He was late. He was late because he was in kindergarten and his mom wouldn't let him out to come to the fishermen's meeting. But the instant school was over he came flying over the hill and plopped himself down and joined the meeting and was an active participant, to say the least. The fishing body of knowledge that is the repository in our fishing community is quite extraordinary in Maine. Nicholas is only one example of the fact that that is just about hard wired into our fishing community, whether it's the boat handling skills, the fishing skills, the history, the tradition or the lore. The practices of the fishermen are a part of their lives from a very early age.

Ninety years ago on Monhegan Island, the community out there had evolved in their fishing practices to the point where they were discussing the fact that if the lobster industry was not healthy on Monhegan and in that immediate area around the island, there was very little future for the community. Because there just wasn't much else happening out there as far as an economy goes. At that point legislation was requested and a closed season was created. Through the 90 years there have been some changes. It moved from statute to rule at one point and a trap limit was added. But essentially, until the last five years or so, that practice has remained the same. In addition to the legal requirements the informal, traditional fishing practices were built in as part of their system as well. In the last few years many fishermen, in order to keep up, I'm sorry to say, in some part with some of the regulations that we passed, which are fishing larger strings of gear out of bigger, faster boats and fishing further away from their normal home territory. Otherwise, you wouldn't probably find people going ten miles off-shore on a daily basis to fish. In an episode about five years ago some of the area that Monhegan had traditionally fished was lost to them. A series of negotiations were held with the Department in which a variety of agreements were made, which have led us to today, because none of those agreements seem to have lasted. And rather than resort to a traditional practice that we don't encourage, which is the resolution through, not the most favorable means to establish territory. The Monhegan Islanders turned to the legislature and said, "We need some help out here. We have a unique area that we're trying to preserve and we need some legislative backing so that we still have some fishing grounds left."

This bill provides for a six month season. It maintains the trap limit of 600 traps and it restricts the Monhegan fishermen to the smallest area in which they have ever tried to survive. They will be fishing a limited area around their island. For the first time ever, we are putting into statute the fact that they will not be permitted to set a trap in any other state water regardless of whether it's their open season or their closed season. So, for the first time they will be restricted to the state water that we've defined in this bill and that will be their only state fishing grounds.

Contrary to what you may have been hearing, there is no residency requirement in the bill. There's an apprenticeship program which trains people in the way of fishing. People from off Monhegan Island have entered what was an informal apprenticeship program for years. They've come from other parts of Maine and other states and they're fishing out there now. So, there is no residency limitation on who can go out there and participate in that program. It is not a closed system. The same rules in this bill that will apply to new entrance to the fishermen will apply to those fishermen, or would-be fishermen whether they are from Monhegan, somewhere else in Maine or somewhere out-of-state. So the ground rules will be the same for everyone. It caps entry at a base line which was the volume of boats that were fishing during the 1997 season, about 15 boats.

From the State's point of view and from the point of view of someone who has been attempting to struggle with fisheries management issues for four years now, which has indeed been a major challenge, what Monhegan practices in body is both a philosophy and some actual practices. What we, as a state and, in fact, the federal government have been trying to create for, I can't tell you how many years, the Monhegan community has done pretty much automatically. It is not easy for them. It's not like things always go smoothly or they always agree with each other. But somehow through the threat of time these practices have been handed down from generation to generation and the value of them has been so clear to those fishermen that they have been maintained voluntarily.

The last piece of this bill commissions a study, because there are certainly other areas who raise questions about fishing practices in their area. One of the concerns raised regarding this bill was, is every cove and every island going to come in and ask for a special zone of their own? The answer to that is this study. We do not intend to deal with areas that have not had a 90 year history of being treated specially in any special way. What we do want to do is look at the coast as a whole. We have a new zone counsel system that's up and running. We want to look at the coastline and say, how are doing? Do we need to make any refinements in this system? So this will be a systematized look at some of the other kinds of issues that come up during the fishery, not as some have said, "a spot-zoning effort." From the perspective of the state, Monhegan Island is the only place on the coast of Maine that has maintained pretty much the same fishing practices and the same level of effort for 90 years. It is the one place that we can look at and see what happens when you manage an area this consistently. We have taken a look at the lobster population there and it is unique. It's a good mix of sizes and genders and ages. We're not sure if there's a cause and effect there. It seems reasonable to assume there is, but we would like to do a lot more study. If we allow a significant increase in effort in that area, we will lose forever our opportunity to draw some conclusions about what works and what doesn't work in fisheries management. So, for the sake of the conservation of the resource and the opportunity that we have in this unique area, and particularly to make a statement of support for a community who, for 90 years, has voluntarily limited their fishing and has done that for the sake of the resource and in order to be a sustainable fishery, which is the current buzz-word in fishing, I would urge you to support the Majority report and to support the people who have been doing it the right way for many generations. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator MacKinnon.

Senator MACKINNON: Thank you Mr. President and women and men of the Senate. I do rise today to speak in favor of the Majority report. This effort by the Committee, I feel, has been a very thorough effort. We've had input from both sides. I support this due to the conservation of the resource itself and the continued study to find an area where we can make sure that we always have a sustainable future in this industry, as opposed to depleting the stock so we end up having recreational type lobstering not commercial lobstering in this state. It's important to us for our Jobs from the Sea program. The Monhegan Island people have voluntarily, as you've heard, for the last hundred years, looked at the conservation issues and tried to do that. Their location, 12 miles out, I feel justifies, in my mind, the idea that we're giving local control and a local lifestyle and are letting them decide how their future will be handled. They did give up the ability to fish in the rest of state waters. They may fish in the federal waters during their season, but remember, it's a 180 days consecutive from start. It's during the winter when lobsters move less. Yes, the size may be greater and the price may be up. We've looked at the boat slips as far as landings. The idea that conservation is working, I feel, is doing that there. This is, which we will probably never understand, landlocked people, a traditional bottom for them. There is controversy over what is the traditional bottom to other people in the state of Maine. I realize that. While everyone may not be happy with the decision of this Committee, it was a Committee vote. The majority of the Committee supports this. There is a study coming back later. But I think the true test is, we've looked at it. We have certainly tried to understand it and make the best decision for the people of the state of Maine and the people of Monhegan. I ask you to support the Majority report. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Pendleton.

Senator PENDLETON: Thank you Mr. President and men and women of the Senate. This issue, as you well know, is a very difficult issue for all of us. It was especially difficult for me because I sit on the Marine Resources Committee and I'm on the Minority report. I feel I owe it to you to tell you why I'm on the Minority report. What has been said is true. As resources in our state and the fishing zones become more and more scarce, it becomes more and more important for all of us to take on the responsibility to protect those resources. I believe, in this case, from much of the testimony that we heard that there was an attempt to do this. In 1996 the Monhegan fishermen announced that they wanted to extend what was then the two-mile radius zone. It makes sense because it was working. Why not increase the zone. At that time the Department went into the process of adopting rules pertaining to the Monhegan zone. And as the good Senator from Hancock, Senator Goldthwait, said, "For many, many years the Department and the State stayed out of this zone." The rules became effective on August 17th of 1996 and provided the following: A closed period from June 25th to January 1st, the expansion of the zone from two to three nautical miles, and the requirement that anyone who fishes in the Monhegan zone gives up his or her right to fish in any other state waters during the closed season. At that time five fishermen

applied for those registrations to fish in that zone, going by those rules. Upon that incident the Monhegan Island people sued the Department because they felt the rules were too loose and too many people would get into the zone. Now what we have before us is a piece of legislation that we worked hard on for many, many hours. At first I thought I might have gone along with the Monhegan perspective and I would have said, yes, they're right. We have to preserve this zone.

What bothers me the most though, is the five fishermen that went by the rules. They got the registration and they were able to fish in the zone. Now, by this law, they're being told, "No longer can you fish in this zone." It just seems to me that somewhere we should be able to allow those five fishermen that have gone by the rules, by the rules that were promulgated by the Department, now rules that will go into state law, that they be able to keep those registrations. They waited seven weeks in limbo not being able to fish while the Department decided what to do, and whether they should have those registrations or not. So, I do hope that you will vote with me and against the Majority report, so we could go on to the Minority report. I think this is micromanaging and, indeed, it does set a precedent.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Kilkelly.

Senator KILKELLY: Thank you Mr. President and men and women of the Senate. The issue before us is in fact a very difficult issue and it's one that we have dealt with now for, some of us, many, many months. It's important, I think, to look at this from two or three different perspectives. One has to do with community. And the fact that we are losing the rural nature of our state. We're losing rural communities. We're particularly losing rural island communities. At the turn of the century there were 300 active, year-round communities on islands in this state, and there are now 14. Those communities have worked hard to develop niche employment opportunities and make sure that there are, in fact, jobs available for folks on a year-round basis. In Monhegan that's been a winter lobster season. As we've heard, for nearly 100 years, the folks in Monhegan have, in fact, been concerned about the sustainability of that fishery and maintaining that community as a year-round viable community. I serve on the Agriculture, Conservation and Forestry Committee, and what we've been listening to for the last several weeks is sustainable forestry. All the time, we're hearing about sustainable agriculture. Sustainability is critical to the natural resource based industries in this state and we need to do everything in our power to support those people who, in fact, have beaten us to the draw in terms of sustainability. The Monhegan folks were fishing sustainably before sustainability was the buzz-word that it is today. I believe very strongly that that's something we need to support. We also need to look at the science that's available and the hypotheses that are out there.

I have a letter that was written to Robin Alden, who was then Commissioner of Marine Resources from Bob Steneck and it's regarding the Monhegan conservation zone. It's dated October 2nd, 1997 and I'd like to share some of it with you, because I think it is absolutely critical to understand the uniqueness of this area around Monhegan and the impact that it may have if it's decimated. The impact that they may be on other parts of the state. "I have some data that may be useful to you. As you know, I've just completed lobster surveys all over the entire coast of Maine. The data my students and I have gathered are from

surveys conducted by scuba diving at multiple sites in York, Pemiqual, Monhegan, Penobscot Bay, Mount Desert, and Jonesport. We've also conducted sea sampling, nearly 80 such sea sampling trips on over 40 vessels at Pemiqual, Monhegan, Mount Desert and Jonesport. Most recently I conducted submarine surveys for deep water lobsters at Pemiqual, Monhegan, Mount Desert and Jonesport. The Monhegan results are unique. Scuba surveys revealed a wider range of lobster sizes than we saw at any other site. Sea sampling data mirrored that pattern. I showed Monhegan sea sampling results to Doug Pezzack and compared them to the adjacent coastal region and his comment was, Monhegan's size structure is the way he'd like to see it throughout the lobster range. Finally, on my submersive dive, Wednesday at Monhegan, I observed the highest lobster population density I have ever seen from a submersible. From my perspective the unique characteristics of Monhegan's lobster stock is very likely the result of the conservation zone. I think it warrants more study and I intend to intensify my research there so better comparisons can be made with coastal lobster stocks. For the sake of scientific research on Maine's most valuable marine resource, I urge you not to allow fishing pressure to increase within that zone. I'm afraid we could lose an important laboratory for lobster studies." It goes on and that, as I said, is from the Darling Center School of Marine Science.

We have an opportunity here to understand what it means to manage this resource over an extended period of time. Going in and decimating that stock, it will take another 90 years of management to recreate that situation. And it will never be the way that it is today. One of the other hypotheses that is circulating has to do with what those brood stock lobsters may, in fact, be doing to populate the lower bays. That's information that hasn't been answered yet. But again, if we over-fish in that area and there is destruction of the balance that's there that has allowed the large brood stock lobster to be there and also the diverse population to be there, we may, in fact, be negatively impacting the ability of lobster lava to be in the bays down below. That could impact, obviously, not just Monhegan but lobstering in this state. As we look around we know that lobstering is the one glimmering hope that we have, in terms of our fishing industry right now. Other things are coming back, but lobstering at this point is doing well. This, in fact, could turn the balance. I would urge you to support the Majority report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President. I really haven't decided which way I'm going to go on this yet. I've listened to all sides. I lean on one side then I go back and lean on the other side. The good Senator Goldthwait from Hancock mentioned there was a limited area out there. I'd like to point out to you that, in questioning, the area was roughly defined as being 23 to 27 square miles. I don't want to lose the rich grounds that are there. I know that the trap limit is 600 in that area. That does not seem to be a problem with the people who want to fish in that area. The season is six months starting on the 1st of January. That doesn't seem to be a problem with the people who want to get in there and do lobstering. My major concern is the apprenticeship program. There are people who will have to serve for 24 months and fish a minimum of 150 days, at a minimum of five hours a day, they probably do that anyway, but the law basically would intend that the conservation area on a vessel operated by a Monhegan lobster conservation area trap tag registrar. It's not

mandatory that they're going to be able to get any of these people to do that. These people who hold those tags would have to agree to sponsor the person as an apprentice, which means that the 12 or so lobstermen who are out there on Monhegan Island could just say, the heck with it. You don't have to worry at all about even applying for an apprenticeship license. That's a real bug in my ear. If we are going to reserve 23 to 27 square miles of lobstering for a particular group of 12 to 14 people then maybe we ought to do the same thing proportionately for those who have maybe 100 or 150 fishermen.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Cassidy.

Senator **CASSIDY:** Thank you Mr. President and men and women of the Senate. Like the good Senator Carey, I'm not really sure exactly how to come down on this issue. It is very involved and there's a lot of things that we need to consider as we make a decision on this bill. Although, I'd like to state a few issues. I, sort of, don't agree with some of the statements that's been said here this morning. First of all, we're getting the opinion that the lobster industry has not worked to preserve that harvest and that crop. As you know, especially you folks who are involved with marine resources and have friends that fish, for years now the lobster industry has had the notched system where they notch the lobster and put them back. It's been very, very successful. There's ample lobster every year. There was a comment made earlier that the crop is depleting and, as you know, every year the harvest has increased. I think one reason why it has increased in the last couple of years is because of an ill-conceived bill that we passed during the 117th Legislature to limit traps to 1200. In effect, what we did was take a lot of folks that had 500 or 600 traps and caused them to buy 1200 and put more traps in the water. I never could understand that. I also was not too excited about causing the fishermen to have to pay a fee to buy some tags to put on these traps. So, I think sometimes we get involved and if we'd let the fishermen control their own industry, I think we might have a lot more success then when we try to jump in with our limited knowledge and decide to tell them how to manage it. I think they have proven to us, when we've seen stocks on the ground fish deplete over the years and all that we read about, that this lobster industry has stayed very strong and viable. I, like all of you, have had all sorts of information brought to me to read, and listened to the debate and talked with folks in the corridor. Listening to the debate, you tend to wonder about the tradition. We're hearing about this 90 year tradition. Well unfortunately, again, the bureaucracy stepped in in 1996 and changed that tradition when we offered folks a chance to apply for licenses to fish in this area. If we had just left it alone, let the tradition stay, then I would agree with you. We changed the tradition when the Department stepped in and said, okay, apply for a license. Apparently we have five folks from Friendship, I understand. I asked them this morning, "How could somebody from Friendship cause such controversy here in these halls?" It's a funny name, but I think we're going to rename the community. Those folks did apply. There were five of them. Apparently granted permission to do that. Now we're saying, okay wait a minute, we don't really want to do that. We changed tradition in 1996, or whenever that happened. I am 100% interested in preserving our heritage on the coast. I come from an area down east and we have a lot of lobster folks there in Beals and Jonesport who've done a tremendous job at saving the resource and harvesting the resource and living in tradition and

carrying on family traditions. I also, like you folks that live in those areas, have gone to visit my constituents there and had an opportunity to go on the boats, and meet with the people, and see the way of life. It is a wonderful way of life. We need to continue to save that. But I want to back up just a little bit into another industry that's important in my area. I think you all have read that in Penobscot Bay when the scallop dragging starts. We've got a small, beautiful area down there, off Eastport. The first day of the season we have 150 boats show up down there from other areas to drag that bay. It's just disheartening to me. We've tried to reset the date so the date would start all at once, so that they wouldn't leave their home area to come down there. They're devastating the bottom. They're taking the resource away from the folks that live in that area. Now, what's the difference between that and these folks that live on Monhegan Island? The thing that I think that this body should do as we send this bill along to the chamber, I think we should take a look at the part of the bill where it says, "do a study." I've never been one to support a lot of studies here, as you know. Sometimes I think we need to do a study to study the studies or something. I think before we go pass a law for one particular area, we need to look at the resources in all the areas. How is this going to affect Jonesport and Beals? What should we do about scallop dragging in Passamaquoddy Bay? And all these issues. So again, I don't totally, like Senator Carey, know which way to go on this. I sort of lean towards, I don't know if this is the right thing to do right now. I'd like to protect that industry. I think where the Department has offered those five fishermen the right to fish there, maybe that's the thing to do right now. Maybe we need to leave this alone, do a study and decide what's the best for the industry on all the islands on the coast. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Pingree.

Senator **PINGREE:** Thank you Mr. President and men and women of the Senate. The first thing I would like to do is thank all the fishermen who have been in our halls for several weeks now. We've gotten to know their families. We've seen their children as elevator operators and Senate pages. They have truly tried very hard to make sure we are all well-informed about this issue. I particularly want to thank all of the fishermen who are here in the chamber today as we debate this very difficult issue. I would guess that many of the fishermen in the room are from the community of Friendship, although I know several are also from Monhegan and other communities as well. I have to say that Friendship is part of my legislative district and Monhegan is not. But, I live on an island. I live on one of the 14 year-round islands that survives, as the good Senator from Lincoln, Senator Kilkelly, mentioned out of the 300 hundred year-round communities that there were at the turn of the century. And for me, that happens to be a very compelling argument. When you live on an island and you're a member of the fishing community and your fisheries doesn't survive, you don't get in your truck and drive somewhere else to go fishing. You pack up your family and move. That is a very difficult situation for the community of Monhegan. I know, from the 26 years I've spent living in an island community, how hard it is to hold on to your bottom. Houses are expensive on islands. There's a lot of pressure from the summer community, from high real estate values, makes it very difficult for families to stay there. If you can't hold on to a strong fishing industry, you can't maintain your home. You can't maintain your family. You can't maintain your school, your

church, or your village store. And the saddest thing is the end of an island community. The pressures are tremendous today, in fishing. We've seen the end of the ground fish. We've seen shrimping and scalloping decline. We've seen urchins come and go. People had invested a lot of money in boats and gear and they want to fish somewhere. The fact is, lobster fishing is very good today. Everybody wants to be a lobster fisherman. The pressure is tremendous. I know the pressure is tremendous in Friendship and all the mainland towns. But it's particularly difficult in the island towns and the island communities where, if they can't maintain that bottom, they can't survive. I've watched what happens in this very territorial industry. People do their best to hold onto what they've got. They go out in the night and cut each other's traps. They slash each other's tires. They do what they have to do to maintain these fisheries. The difference that we're looking at in this bill is that a community has come to the Legislature and said, "We don't want to do it that way. We're asking you for help. We want to do something that we've done for 100 years, and that's preserve a very special industry for our community." And today they're asking us for our help. This is one step further in what the Legislature's been trying to do for the last few years around fishing, and that is to create a self-governing fishing industry. We've created lobster zones. We've set up lobster counsels. We're looking for more and more ways to ask the fishermen to preserve this industry themselves. This community is coming to us and asking to do even more of that. It is very tough to experience this kind of change in this industry. It is very tough to make the kind of changes that we're making today. And I will say, for me, this is a very, very tough vote, one of the toughest votes I've had to cast in my six years, against my constituent community. But I am, today, going to support the Majority Ought to Pass report and I encourage the rest of you to do the same.

Senator **PENDLETON** of Cumberland requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you Mr. President. May I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **LAFOUNTAIN:** Thank you. I'm not quite sure from the debate today in my interpretation of the bill. What rights will someone who can lobster in a conservation area have to federal waters?

THE PRESIDENT: The Senator from York, Senator LaFountain poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. Federal water is not under our jurisdiction. However, the fishermen on Monhegan have agreed that they will not fish federal water in their closed season. They may fish it in their open season, although the adjacent federal bottom, through the territorial system, has already been lost to them.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Amero.

Senator **AMERO:** Thank you Mr. President and ladies and gentlemen of the Senate. I rise today to support the Majority report of the Committee on Marine Resources. I do so for three major reasons. The first being the importance of preserving an island community, a community that for many, many years has preserved its own destiny. I think the importance of island communities, as the good Senator from Knox, has already mentioned, Senator Pingree, is extremely important. I also think the whole issue of preservation is one of importance. The Bangor Daily News mentioned in an editorial not too long ago that, "In many ways this whole debate is a clash of eras. For a century Monhegan has been the cradle of conservation with self-imposed rules, such as the half year season. And that sooner or later the rest of the world was going to find Monhegan." That's exactly what has happened with the new, faster boats and new technology. There's also one other reason why I'm going to support the Majority report and that is because of the hundred years of scientific data that we do have from Monhegan. Once again, to quote the Bangor Daily News editorial board, they say, "that the preservation of Monhegan Island should benefit the whole lobster industry, scientifically and financially. Federal regulators insist that lobster is over-fished, a contention disputed by lobstermen. But it takes hard data not anecdotal evidence or landing receipts to stave off ruinous regulations. And it takes controlled conditions to generate scientific conclusions. The hundred years of data built up by the limited fishing on Monhegan likely will prove invaluable. It is the only place in Maine where fishing effort, harvest and conditions have been so meticulously recorded." So, for these three reasons, island community, preservation and the importance of data, I would urge your support of the Majority report. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Carey.

Senator **CAREY:** Thank you Mr. President. What I'm looking for here is some equality and I would hope that I would be given the opportunity at some point in time to offer an amendment which would direct the apprenticeship program to take on the people who are asking to be taken in. If, in fact, that isn't the case then maybe the amendment should read, that going down the list of seniority as those who applied would automatically be given a license subject to any search of violations they may have had in the past. I would like to be able to put a limit, for instance, on the number of people who would be able to get in there. These are Maine waters. They belong, really, to the people of Maine. I appreciate the conservation effort. I am thinking that if, in fact, the lobstering is so good over there that maybe we can adjust for having a few people in there by lowering the number of traps from 600 to 500. It's obviously very lucrative business.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. If I could, very briefly, just address some of the concerns that the good Senator from Kennebec, Senator Carey, has raised particularly regarding the apprenticeship program. The apprenticeship program will apply to anyone whether they are from Monhegan or from anywhere

else on the planet, or possibly other planets. It will be a list kept in chronological order so that when you complete the apprenticeship program you go on the list. It doesn't matter where you're from. When a space opens up in the area the top name on the list gets in. You may not simply hold a license and not fish it, so you're using up a space that somebody on the list could have. You've got to document that you actually harvested or that space becomes available. The question of whether Monhegan people could simply say, we won't take anybody and therefore nobody from outside would be able to get in. We now have an apprenticeship program statewide. There are the same ground rules for that program as there are for this. So, this is no different than that. The reality is that if you go to the Monhegan school, when everybody's there, you will see three children. There are 15 boats allowed to fish out there. Three kids can't go stern man for 15 fishermen. They need people from outside of their community in order to maintain their fishery. So the fear that they will simply control the apprenticeship and therefore control entry is a perfectly legitimate one but, in this case, it is not a real one simply because there is not the volume of young people coming up in that community to provide an adequate population of stern men. Thank you.

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

Senator **MURRAY:** Mr. President, may I pose a question through the Chair?

THE PRESIDENT: The Senator may pose his question.

Senator **MURRAY:** Thank you Mr. President. To anyone who could answer, the issue of the pressure on the area is one that's important to me. My question is, if we do not pass the proposed changes and the current situation stays as it is, there are currently five individuals, as I understand it, who are licensed and are allowed to fish in this area. Under the current law would that number be allowed to expand? And if so, what are the procedures by which that could happen?

THE PRESIDENT: The Senator from Penobscot, Senator Murray poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President and ladies and gentlemen of the Senate. In answer to the question, there would be no limit on the number of people who could register for this zone.

On motion by Senator **BENOIT** of Franklin, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Chair noted the absence of the Senator from Kennebec, Senator **TREAT**, and further excused the same Senator from today's Roll Call votes.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, BUTLAND, CATHCART, CLEVELAND, DAGGETT, FERGUSON, GOLDTHWAIT, HALL, HARRIMAN, JENKINS, KIEFFER, KILKELLY, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, MURRAY, NUTTING, O'GARA, PARADIS, PINGREE, RAND, RUHLIN, SMALL, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: CAREY, CASSIDY, PENDLETON

EXCUSED: Senator: TREAT

31 Senators having voted in the affirmative and 3 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **GOLDTHWAIT** of Hancock to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-464)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-464) **READ** and **ADOPTED**.

Senate at Ease

Senate called to order by the President.

The Chair moved the Rules be suspended for the purpose of giving this Bill its **SECOND READING**.

At the request of Senator **HARRIMAN** of Cumberland a Division was had. 20 Senators having voted in the affirmative and 9 Senators having voted in the negative, **RULES SUSPENDED**.

READ A SECOND TIME.

PASSED TO BE ENGROSSED AS AMENDED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/19/98) Assigned matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Encourage Regionalization of Municipal Services" H.P. 297 L.D. 361

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-782)** (8 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - February 19, 1998, by Senator **PINGREE** of Knox.

Pending - ACCEPTANCE OF EITHER REPORT

(In House, February 18, 1998, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)**.)

(In Senate, February 19, 1998, Reports **READ**.)

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)** Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Nutting.

Senator **NUTTING:** Thank you Mr. President. I know this issue is not as controversial as the one we just finished with but it is, I believe, a 9 to 1 Committee report from the State and Local Government Committee. This simply allows the State Planning Office to continue a \$100,000 grant program put out to the service centers of communities of the State of Maine to allow them to begin to explore ways, and this is the real part of the bill that got my attention, for them to work together so that they can save money. I know New England tradition is one of independence and the more independent we can be of everybody else the better we feel. Although, I absolutely never feel that way myself as a farmer. I know there may be ways communities can work together with emergency services, solid waste and recycling. The recycling truck may be able to cover Lewiston and Auburn rather than just Lewiston, etc., etc. It's kind of a competitive grant program the State Planning Office would run to try to get communities to apply and to voice their ideas for saving money ahead of time. At that point they would award various small grants to communities just to try to lead by example. Communities could come up with a novel idea where they could work together where they hadn't otherwise worked together and save property taxes in the meantime. So, I urge your support of the Majority report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Libby.

Senator **LIBBY:** Thank you Mr. President and men and women of the Senate. I rise today to ask you to oppose the pending motion. I'd like to give you just a few reasons why. First of all, many of you know that communities can ban together already and serve many of the purposes that the good Senator from Androscoggin, Senator Nutting, has brought forward to you today. For example, two communities that I serve share dispatch. Now, it didn't take them a grant program to get together, to join together, to try to work together, save money and be more effective. Ask yourself this question just from a philosophical standpoint, why is it, in Maine State Government, that we are constantly saying, we've got to spend more money to save money? Why is it that we're constantly saying that? We've got to spend more money to save money. I don't believe necessarily in that principle and particularly in this case, because I will tell you that in my area we've got a commission called the Southern Maine Regional Planning Commission. It is their job to help these communities come together and save money. It is

their job to find ways for municipalities to come together and save money. Now, second of all, if you read the bill carefully you'll find out that you don't have to increase efficiencies. It says, "Increase efficiencies or," not and, but "or improve or expand services." If we keep sending \$100,000 appropriations down to the Appropriations Committee, the table's just going to keep piling up and piling up and we're going to spend a whole lot of money that can be done now, currently, for nothing. I've got nothing against the approach of communities working together. I think they should. Solid waste is a great example. But why come up with another new spending program to do something that can already be done, and the technical expertise is already out there. I just can't see it. So, I really hope and urge you to oppose the pending motion and to defeat this bill. Thank you.

The Chair ordered a Division.

On motion by Senator **PINGREE** of Knox, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary called the Roll with the following result:

ROLL CALL

YEAS: Senators: CATHCART, DAGGETT,
GOLDTHWAIT, JENKINS, KILKELLY,
LAFOUNTAIN, LONGLEY, MACKINNON,
MURRAY, NUTTING, O'GARA, PARADIS,
PENDLETON, RAND, RUHLIN, THE
PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: ABROMSON, AMERO, BENNETT,
BENOIT, BUTLAND, CAREY, CASSIDY,
CLEVELAND, FERGUSON, HALL, HARRIMAN,
KIEFFER, LIBBY, MICHAUD, MILLS,
MITCHELL, PINGREE, SMALL

EXCUSED: Senator: TREAT

16 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **NUTTING** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)** Report, in concurrence, **FAILED**.

Senator **PINGREE** of Knox moved the Senate **RECONSIDER** whereby the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)** Report **FAILED ACCEPTANCE**, in concurrence.

Senator **LIBBY** of York requested a Division.

Senator **PINGREE** of Knox requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Libby.

Senator **LIBBY:** Thank you Mr. President. May I pose a parliamentary inquiry?

THE PRESIDENT: The Senator may pose his parliamentary inquiry.

Senator **LIBBY:** Thank you Mr. President. Can those two motions be made at the same time?

THE PRESIDENT: The Chair would answer that the first one is not a motion. It's a request for a roll call.

Senator **LIBBY:** Thank you Mr. President.

On motion by Senator **PINGREE** of Knox, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The same Senator further moved to **TABLE** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)** Report **FAILED**. (Roll Call Ordered)

At the request of Senator **LIBBY** of York a Division was had. 19 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator **PINGREE** of Knox to **TABLE** until Later in Today's Session, pending the motion by same Senator to **RECONSIDER** whereby **ACCEPTANCE** of the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-782)** Report **FAILED** (Roll Call Ordered), **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later (2/23/98) Assigned matter:

HOUSE REPORT - from the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Open a Discount State Liquor Store in Calais"
H.P. 277 L.D. 341

Report - Refer to the Joint Standing Committee on Legal and Veterans Affairs

Tabled - February 23, 1998, by Senator **RAND** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In House, January 28, 1998, **BILL SUBSTITUTED FOR THE REPORT** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "D" (H-778) AND "E" (H-779)**.)

(In Senate, February 18, 1998, the Report **READ** and **ACCEPTED** in **NON-CONCURRENCE** and the Bill **REFERRED** to the Committee on **LEGAL AND VETERANS AFFAIRS** in **NON-CONCURRENCE**.)

(In House, February 19, 1998, that Body **RECEDED** and the Bill and Accompanying Papers **COMMITTED** to the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** in **NON-CONCURRENCE**.)

On motion by Senator **DAGGETT** of Kennebec, the Senate **ADHERED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (2/24/98) Assigned matter:

HOUSE REPORT - from the Committee on **CRIMINAL JUSTICE** on Bill "An Act to Allow Police to Take Intoxicated Persons into Custody" H.P. 562 L.D. 753

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-798)**

Tabled - February 24, 1998, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF THE REPORT**

(In House, February 23, 1998, the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-798)**.)

(In Senate, February 24, 1998, Report **READ**.)

Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-798) **READ** and **ADOPTED**, in concurrence.

TOMORROW ASSIGNED FOR SECOND READING.

The Chair laid before the Senate the following Tabled and Later (2/24/98) Assigned matter:

HOUSE REPORTS - from the Committee on **TRANSPORTATION** on Resolve, Requiring the State to Reimburse Towns for the Construction of Salt and Sand Storage Facilities H.P. 1415 L.D. 1979

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-796)** (2 members)

Tabled - February 24, 1998, by Senator **RAND** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, February 23, 1998, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, February 24, 1998, Reports **READ**.)

On motion by Senator **O'GARA** of Cumberland, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Senator **PINGREE** of Knox was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **LIBBY** of York was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **GOLDTHWAIT** of Hancock was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Senator **KILKELLY** of Lincoln was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **PINGREE** of Knox, **ADJOURNED** until Thursday, February 26, 1998, at 9:00 in the morning.