

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Fifth Legislature
State of Maine

Daily Edition

Second Regular Session

January 4, 2012 – May 31, 2012

pages 1084 - 1604

An Act To Improve Efficiency Maine Trust Programs To Reduce Heating Costs and Provide Energy Efficient Heating Options for Maine's Consumers

(S.P. 649) (L.D. 1864)
(C. "A" S-508)

An Act To Rename the Maine Jobs Council as the State Workforce Investment Board and Make Changes to Its Structure

(S.P. 655) (L.D. 1874)
(C. "A" S-511)

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.

Emergency Measure

An Act To Amend the Charter of the Bingham Water District and To Direct That Certain Issues Be Studied

(H.P. 1363) (L.D. 1842)
(C. "A" H-879)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 2 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Amend the Sex Offender Registration Laws

(H.P. 1117) (L.D. 1514)
(C. "A" H-873)

An Act Regarding the Fee for Amusement Ride Inspections and the Development of Options To Move the Responsibility of the Inspections from the Office of the State Fire Marshal

(H.P. 1287) (L.D. 1745)
(C. "A" H-874)

An Act To Implement Certain Recommendations of the Criminal Law Advisory Commission

(H.P. 1374) (L.D. 1856)
(C. "A" H-872)

An Act To Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority

(H.P. 1403) (L.D. 1901)

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.

An Act To Reform Telecommunications Regulation

(H.P. 1309) (L.D. 1784)
(C. "A" H-869)

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

On motion of Representative FITTS of Pittsfield, was **SET ASIDE**.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative FITTS: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 1784, "An Act To Implement Recommendations To Reform Telecommunications Regulation," may be the most important bill that the Energy, Utilities and Technology Committee moved through this year. This legislation updates Maine's decades old telecommunication statute that recognizes the competitive telecommunications industry of the 21st century. Many months

of intense study went into the creation and the crafting of this legislation and most of that work was done at the Public Utilities Commission, but it was also done under, with the cooperation and under the watchful eye of industry, the public advocate, numerous consumer groups, and they all worked to review and update the statutes related to telecommunications.

The PUC presented a final report to the Energy, Utilities and Technology Committee that led to the crafting of what now is LD 1784. All the stakeholders, the PUC, the OPA, industry and consumer groups negotiated for many weeks to arrive at what is now a consensus which will become and has become this amended bill. LD 1784 received a unanimous vote out of the committee, Ought to Pass as Amended, and it was done going back through that same grueling process that all of those various other groups did. The committee learned a lot about telecommunications in the process, but I think in the end we've created what will be a remarkable piece of work and I rise today to thank the committee for their hard work and to thank all of the people who participated. I think they should be proud of the work that they've created and I hope moving forward that we will continue to move towards a very competitive telecommunications industry, with less regulation but not no regulation. People will still have provider of last resort protection, consumer protections exist as if they did today. But the system itself will be modernized and I think that's the most important part. I thank you Mr. Speaker and Ladies and Gentlemen of the House.

Subsequently, the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

REPORTS OF COMMITTEE

Ought to Pass Pursuant to Resolve

Report of the **Joint Standing Committee on Education and Cultural Affairs** on Bill "An Act To Implement the Recommendations of the Stakeholder Group To Review the Maine State Grant Program"

(S.P. 680) (L.D. 1908)

Reporting **Ought to Pass** pursuant to Resolve 2011, chapter 14, section 4.

Came from the Senate with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Report was **READ** and **ACCEPTED**. The Bill was **READ ONCE**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (11) **Ought to Pass as Amended by Committee Amendment "A" (S-441)** - Minority (1) **Ought Not to Pass** - Committee on **TAXATION** on Bill "An Act To Ensure Harvesting of Timber on Land Taxed under the Maine Tree Growth Tax Law"

(S.P. 459) (L.D. 1470)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-441)**.

TABLED - March 30, 2012 (Till Later Today) by Representative KNIGHT of Livermore Falls.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Subsequently, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (S-441)** was **READ** by the Clerk.

Representative MacDONALD of Boothbay **PRESENTED House Amendment "A" (H-891) to Committee Amendment "A" (S-441)**, which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I think this is a good bill as far as it goes. I do think that one critical element that was, in my view critical element, that was left out of it is the ability for taxpayers in local communities to actually understand what are the plans that exist within the community and my amendment is a simple attempt to make those plans more available within certain limits to the local taxpayers.

As you may know, the bill calls for an improvement in the current Tree Growth program by allowing an audit by the Forest Bureau and that's a good thing, but what that audit does not allow is for any local taxpayer to get any substantive information about what are in the Tree Growth plans in the local communities. As you know, there are millions of acres of land in Maine in Tree Growth and there are millions of dollars of tax abatements that are offered under that program. That's all a good thing because I think it helps our forest products industry and it keeps some land out of development, when properly used, that otherwise might have gone into development. But the problem is, Mr. Speaker, that when these plans are adopted in a community, the community's costs for schools and other local services do not go down. So when these abatements are offered through the Tree Growth Plan, other taxpayers have to take up the slack and pay the bill that is represented by the abatement to the Tree Growth owner. So I believe that is in a broad public interest that taxpayers whose own taxes are affected by these plans have access to the plans so that they can at least understand what it is that's being done, so that they can make a judgment on their own as to whether or not they are being fairly or unfairly asked to contribute more to the local municipal budgets.

The amendment that I put forward does not look back at all. In fact, it would not take effect until January 1, 2014, and only any plan that was created after 2014, when it's updated after 2014, would be impacted by this. So, Mr. Speaker, I do believe that this is a rational "let the sun shine in" on what are the practices in the Tree Growth Plan for any given community. It gives our fellow taxpayers the ability to look more deeply into what makes up the elements of the Tree Growth Plan in their community and to better make better informed decisions about how to go forward with this kind of a plan. This is a state plan that has a major effect on local taxpayers because it affects your local property tax. I would point out, in conclusion, that property tax information in every community is a matter of public record, except for this kind of information. So I think that the adoption of this amendment to this bill would make it even better and I ask for your support for this amendment. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Knight.

Representative **KNIGHT**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak against my good friend from Boothbay, Representative MacDonald. This bill has been vetted over the last two years by the Tax Committee at great length, this bill along with 1138, and we've worked very hard to stiffen the requirements to make this process more transparent. I'd like to say a couple things about it.

Under the current Tree Growth Plan, enrolled parcels are subject to several levels of scrutiny. Those charged with enforcing the Tree Growth Tax Law have full access to the Tree Growth management plans. When those plans are approved, the assessors or the selectmen can see those plans. They are available. The landowners must obtain a forest management and harvest plan prepared by a licensed professional forester. The landowners are required every 10 years to submit a statement from a licensed professional forester to the local tax assessor stating that the enrolled parcel is being managed according to that plan. This is a very, very complex piece of tax law. If a municipality has any questions or concerns about a particular parcel of land enrolled in the program, under existing statute, existing law today, the community can direct the Maine Forest Service to provide them with assistance in looking at the plan, to ascertain whether or not that plan is being followed as written. Further, it's not known by many that prior to cutting any wood the landowners must file a harvest notification form with the Maine Forest Service. That information is also available to municipalities.

In addition, just a few days ago, this body approved LD 1138. That body of law has put in a very important new piece which is attestation language requiring that the property, anybody managing under this plan must attest that the land is being run in accordance with the managed plan and that the trees that are harvested on that land are for commercial purposes. It's kind of ironic that the amendment that is being proposed actually weakens enforcement, because it allows landowners to bring back any information which they consider proprietary. This means that those enforcing the law may not have access to the information in the plan which currently is available.

The Tree Growth Tax Law program is the most important program we have in Maine to keep forestland as forestland and repeated attacks are counterproductive to make this important program work. Mr. Speaker, I would move that the amendment being proposed be Indefinitely Postponed.

The same Representative moved that **House Amendment "A" (H-891) to Committee Amendment "A" (S-441) be INDEFINITELY POSTPONED**.

Representative CAIN of Orono **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-891) to Committee Amendment "A" (S-441)**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative McCabe.

Representative **McCABE**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise today in opposition of this amendment. I first want to thank the Taxation Committee for their work on this important issue in addressing this very important program and some issues that citizens of Maine had with this program. But I think that the motion or the amendment before us is a major concern. You know, I hear different reasons for it but I feel it's very unnecessary.

A lot of the information that people seem to be requesting has more to do with tax rates and can already be obtained through your town office or through working with your assessor. I personally feel that the plan, the Forest Management Plan,

is really a plan that's between the landowner, land manager and the forester. It's really not something that is needed to be found in the town office. The assessors have the ability to request that plan if they have questions or concerns currently, and I feel that's probably a more appropriate avenue for viewing that plan. So at this time I rise in opposition.

And I also think, we talked a lot about the tax breaks associated with this program, but there's also a value to communities for open space. I think of when the school bus stops at my house, it stops to pick up children. But typically the school bus doesn't go and stop at a woodlot to pick anybody up, but come Saturday morning I might drive out to someone's woodlot, where I might go hunt. The adjacent properties have a higher land value because of that open space and forested land for recreation, so I sort of question our intent at this time and I hope folks will follow me in voting against this amendment. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to the pending motion and in support of the good Representative from Boothbay in his effort to both ensure that Tree Growth does accomplish its intent, which is to create jobs and to ensure commercial forestry on parcels that are subsidized, and also to ensure that the public's right to know is protected.

I think that both the jobs concern and the public's right to know trump the other, I will say, legitimate points that have been made here on the other side of the argument. The underlying policy here is good, but if we can go vote down the Indefinite Postponement, then we can ensure that job creation and the transparency that I think we would all agree are important.

Tree Growth is a growing program. In 1977, just seven years after it was first enacted, there were only 5,000 parcels, roughly, that were in Tree Growth. Today 22,000, more than four times as many parcels, are in Tree Growth. Many of those increasingly are on shoreland and I don't just mean shoreland along the coast, along our saltwater frontage, but also inland on the lakes and ponds. This shoreland is very restricted in terms of what can be cut and it is also incredibly valuable property, which should be taxed at a reasonable rate.

Tree Growth, unfortunately, has come to be used as a tax dodge, and that is very unfortunate because it defeats the purpose to create jobs and it also requires that other taxpayers foot the bill. Ninety-five, often times more than 95 percent of the value of land can be exempted from taxation, and who pays for that? The neighboring taxpayers. It's everybody else, and often times a single landowner can avoid hundreds of thousands of dollars, even millions, cumulatively, in taxes requiring others to foot the bill and that's not right. We've had members of both sides of the aisle come forward with stories about that from their communities back home and with the concern that there is not enough transparency now within the Tree Growth program, and that the relatively small benefit of allowing this secrecy is far outweighed by the need to create jobs and to ensure transparency.

Mr. Speaker, right now, if I choose not to pay my taxes or am late in a payment, I might be listed in the annual report for not having paid \$200. That's public information. I believe it should be. But if I am avoiding \$200,000 in payment, I may be able to walk away unscathed, either publicly or otherwise. I think the public has a right to know. We all want to know that our tax dollars are creating jobs, so I urge all the members to vote down the pending motion and go on to Accept this excellent amendment from the Representative from Boothbay. Thank you.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. I rise in opposition to this motion as you might expect and only do so because the good Representative and chair of Tax, Representative Knight, mentioned that my amendment would, in making this motion, mentioned that my amendment would weaken the improvements that have been made in the Tree Growth Tax program through both the previous bill that he referenced and also this bill. I don't think that the amendment that I'm offering would weaken it. I think what weakens tax bills is when the general public does not have transparency in understanding why a piece of property ought to be given such an abatement. I think that's what weakens public support for programs that we have. I do believe that if there's full transparency, the more sunshine that we can place on this bill, as well as on any other tax bill of this type, the stronger the bill will be, because I do believe there will be more public acceptance of these plans because, by and large, they are good plans. It's only a few of the bad apples that make the public have a suspicion about them.

I would point out that Tree Growth is not the only tax abatement system that we have. We abate taxes for churches and for schools and for certain kinds of nonprofits that do public good. Everyone has access to the information about what those institutions do. They can see them. They know them, they understand them. They are seldom questioned. I do think that in the case of Tree Growth, people do not see the benefit without, in this case, they will be given more information about what's going on with these Tree Growth plans. I believe they will build stronger support for them through this kind of amendment than otherwise. So again, I ask that you vote against Indefinite Postponement and go on to be able to vote on the substance of this amendment. Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-891) to Committee Amendment "A" (S-441). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 294

YEA - Ayotte, Beaudoin, Beaulieu, Bennett, Black, Burns DC, Cebra, Chase, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossil, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Hayes, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Newendyke, O'Connor, Olsen, Parker, Parry, Picchiotti, Plummer, Prescott, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Wallace, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

NAY - Beavers, Beck, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clark H, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Hinck, Hogan, Hunt, Innes Walsh, Kaenrath, Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Monaghan-Derrig, Morrison, Nelson, O'Brien, Peoples, Peterson, Pilon, Priest, Rankin, Rotundo, Russell, Sanborn, Shaw, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Wagner R, Webster, Welsh.

ABSENT - Bickford, Celli, Damon, Herbig, Rochelo.
Yes, 76; No, 69; Absent, 5; Vacant, 1; Excused, 0.

76 having voted in the affirmative and 69 voted in the negative, 1 vacancy with 5 being absent, and accordingly **House Amendment "A" (H-891) to Committee Amendment "A" (S-441) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-441) was ADOPTED.**

Subsequently, under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Subsequently, under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-441)** in concurrence.

HOUSE DIVIDED REPORT - Majority (8) Ought Not to Pass - Minority (5) Ought to Pass as Amended by Committee Amendment "A" (H-782) - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act To Clarify Case Management Supervision Authority and Ensure Access to Case Management Services" (EMERGENCY)

(H.P. 1244) (L.D. 1692)

TABLED - March 15, 2012 (Till Later Today) by Representative **STRANG BURGESS** of Cumberland.

PENDING - Motion of same Representative to ACCEPT the Majority OUGHT NOT TO PASS Report.

Subsequently, Representative **STRANG BURGESS** of Cumberland **WITHDREW** her motion to **ACCEPT** the Majority **Ought Not to Pass Report.**

Subsequently, on further motion of the same Representative, the **Minority Ought to Pass as Amended Report** was **ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "A" (H-782) was READ** by the Clerk and **ADOPTED.**

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-782)** and sent for concurrence.

An Act To Prepare Maine People for the Future Economy (MANDATE)

(S.P. 439) (L.D. 1422)
(C. "A" S-477)

TABLED - March 28, 2012 (Till Later Today) by Representative **CURTIS** of Madison.

PENDING - PASSAGE TO BE ENACTED.

Representative **TREAT** of Hallowell moved that the rules be suspended for the purpose of **RECONSIDERATION.**

Representative **CURTIS** of Madison **REQUESTED** a roll call on the motion to suspend the rules for the purpose of **RECONSIDERATION.**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER:** A roll call has been ordered. The pending question before the House is to suspend the rules for the purpose of **Reconsideration.** All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 295

YEA - Beaudoin, Beavers, Beliveau, Berry, Blodgett, Boland, Bolduc, Briggs, Bryant, Cain, Carey, Casavant, Chapman, Chipman, Clarke, Cornell du Houx, Dill J, Dion, Driscoll, Duchesne, Eberle, Eves, Flemings, Gilbert, Goode, Graham, Hanley, Harlow, Haskell, Hinck, Hunt, Innes Walsh, Kaenrath,

Kent, Kruger, Kumiega, Lajoie, Longstaff, Lovejoy, Luchini, MacDonald, Maloney, Martin, Mazurek, McCabe, Monaghan-Derrig, Morrison, O'Brien, Peterson, Pilon, Priest, Rotundo, Russell, Sanborn, Stevens, Stuckey, Theriault, Treat, Tuttle, Valentino, Webster, Welsh.

NAY - Ayotte, Beaulieu, Bennett, Black, Burns DC, Cebra, Chase, Clark H, Clark T, Cotta, Crafts, Cray, Crockett, Curtis, Cushing, Davis, Dow, Dunphy, Edgecomb, Espling, Fitts, Fitzpatrick, Flood, Fossel, Foster, Fredette, Gifford, Gillway, Guerin, Hamper, Harmon, Harvell, Hayes, Hogan, Johnson D, Johnson P, Keschl, Knapp, Knight, Libby, Long, Maker, Malaby, McClellan, McFadden, McKane, Morissette, Moulton, Nass, Nelson, Newendyke, O'Connor, Olsen, Parker, Parry, Peoples, Picchiotti, Plummer, Prescott, Rankin, Richardson D, Richardson W, Rioux, Rosen, Sanderson, Sarty, Shaw, Sirocki, Strang Burgess, Tilton, Timberlake, Turner, Volk, Wagner R, Wallace, Waterhouse, Weaver, Willette A, Willette M, Winsor, Wood, Mr. Speaker.

ABSENT - Beck, Bickford, Celli, Damon, Herbig, Rochelo.

Yes, 62; No, 82; Absent, 6; Vacant, 1; Excused, 0.

62 having voted in the affirmative and 82 voted in the negative, 1 vacancy with 6 being absent, and accordingly the motion to suspend the rules for the purpose of **RECONSIDERATION FAILED.**

Representative **CURTIS** of Madison **REQUESTED** a roll call on **PASSAGE TO BE ENACTED.**

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER:** The Chair recognizes the Representative from Newport, Representative **Fredette.**

Representative **FREDETTE:** Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. If my understanding is correct, this is a vote for LD 1422 for Enactment and I'm opposed to this bill. When I was in caucus today I used the example of when I was in high school I asked a girl out for a date, and when we went out on the date, I like to eat lobster and she liked hamburgers, but I told her "No, you have to eat lobster because I like lobster." Then when the date got done, I told her she had to pay. Subsequently, there was not a second date. That's essentially what this bill is. It's a date saying you have to eat what I want to eat and you have to pick up the bill.

If you look at the fiscal note, if you actually take the time to go to your computer and you actually look at the fiscal note prepared by the Committee AFA, it reads, and I will just read this very quickly, that it requires local school administrative units to transition to proficiency-based standards for awarding a high school diploma by January 1, 2017. To the extent that the development of the methodology for implementation can be provided by the working group, the Department of Education, the cost to school administrative units may be moderate. However – this is the important part – pursuant to the mandate preamble, the 2/3 vote of all members elected to each house exempts the state from the constitutional requirement to fund 90 percent of the additional cost. So this is a mandate that your local school units, your local taxpayers, are going to be paying for.

Traditionally, Republicans have been opposed to mandates and I'm opposed to this because it's a mandate. We sort of have a hybrid of this system within our own RSU. It's currently being used in the K-8 program with the more traditional method at the high school. When I get a report card from my son who is in the middle school, quite frankly, I have a very difficult time understanding what it's telling me, and that's this system here. Now my daughter who is at the high school and when I get her report card, I look at it and it has A's, B's, and C's – actually, it has all A's – but I can understand what it means. But if we want