

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Wednesday, April 16, 1975

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

Prayer by the Rev. James Renwick of Birch Harbor.

The journal of yesterday was read and approved.

Papers from the Senate

Bills from the Senate requiring reference were disposed of in concurrence, with the following exception:

Tabled and Assigned

Bill "An Act to Create the Commission on Governmental Ethics and Election Practices" (S. P. 487) (L. D. 1778)

Came from the Senate referred to the Committees on State Government and Election Laws jointly.

In the House, on motion of Mr. Birt of East Millinocket, tabled pending reference in concurrence and tomorrow assigned.

Committee on Liquor Control reporting Leave to Withdraw on Bill "An Act Relating to Business Days and Hours under the Liquor Laws" (S. P. 365) (L. D. 1168)

Committee on Appropriations and Financial Affairs reporting Leave to Withdraw on Bill "An Act Making Supplemental Appropriations for the Substitute Care Program" (S. P. 318) (L. D. 1095)

Came from the Senate with the Reports read and accepted. In the House, the Reports were read and accepted in concurrence.

Committee on Health and Institutional Services on Bill "An Act Concerning Residence Facilities of State Patients into the Community" (S. P. 46) (L. D. 98) reporting "Ought to Pass" in New Draft under same title (S. P. 491) (L. D. 1738)

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

In the House, the Report was read and accepted in concurrence, the New Draft read once and assigned for second reading tomorrow.

Orders

Mr. Gray of Rockland presented the following Joint Order and moved its passage: (H. P. 1498)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Major J. Edward Marks of Thomaston on his Retirement from Service with the Maine State Police

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

On motion of Mr. Albert of Limestone, it was

ORDERED, that Nancy Randall Clark of Freeport be excused April 21st and 22nd for personal reasons,

AND BE IT FURTHER ORDERED, that James B. Wagner of Orono be excused for the Week of April 21st for personal reasons.

**House Reports of Committees
Leave to Withdraw**

Mr. Hall from the Committee on Natural Resources on Bill "An Act to Introduce Consideration of Socioeconomic Factors into the Site Location of Development Act" (H. P. 85) (L. D. 115) reporting Leave to Withdraw

Mr. Blodgett from the Committee on Natural Resources on Bill "An Act to Provide a Central Service Bureau to Advise Applicants of Project and Environmental Requirements Under State Law" (H. P. 576) (L. D. 711) reporting same.

Mr. Curran from the Committee on Natural Resources on Bill "An Act to Provide Deadlines within which the Board of Environmental Protection Must Act on Certain Permits and Licenses" (H. P. 628) (L. D. 779) reporting same.

Reports were read and accepted and sent up for concurrence.

**Consent Calendar
First Day**

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

Bill "An Act to Specify the Future Use of Certain Lands in the City of Portland" — Committee on Natural Resources reporting "Ought to Pass" (H. P. 768) (L. D. 939)

Bill "An Act Relating to Exemption of Law Enforcement Agencies and Courts under the Human Rights Act" — Committee on Judiciary reporting "Ought to Pass" (S. P. 283) (L. D. 997)

Resolve, Authorizing Priscilla Blodgett of Augusta or her Legal Representatives to Bring an Action against the State of Maine — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-162) (H. P. 553) (L. D. 681)

Bill "An Act to Allocate Moneys for the Administrative Expenses of the State Lottery Commission for the Fiscal Years Ending June 30, 1976 and June 30, 1977" — Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-163) (H. P. 710) (L. D. 889)

No objections having been noted, the above items were ordered to appear on the Consent Calendar of April 17, under listing of the Second Day.

**Consent Calendar
Second Day**

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

Bill "An Act to Allocate Moneys for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance and Administration and the State Liquor Commission for the Fiscal Years Ending June 30, 1976 and June 30, 1977." (Emergency) (H. P. 709) (L. D. 888)

Bill "An Act Relating to Reallocation of Existing Institutional Resources of the Bureau of Corrections" (H. P. 559) (L. D. 688)

Bill "An Act Relating to Withdrawal of Good Time for County Jail Inmates" (S. P. 210) (L. D. 700)

Bill "An Act to Provide Funds for the Continuation of Children's Mental Health

Services within the State of Maine" (C. "A" H-156) (H. P. 623) (L. D. 777)

Bill "An Act to Provide Vocational Rehabilitation Services to Those Persons who are Deaf or Who Have Impaired Hearing" (C. "A" H-158) (H. P. 165) (L. D. 199)

Bill "An Act to Provide for Continuity of Treatment by Ambulance Personnel" (C. "A" H-159) (H. P. 495) (L. D. 613)

Bill "An Act Relating to Premiums and Rebates by Class A Restaurants under the Liquor Laws" (C. "A" H-160) (H. P. 873) (L. D. 1047)

Bill "An Act Relating to Single Payment Loans under the Maine Consumer Credit Code" (C. "A" S-55) (S. P. 201) (L. D. 668)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were passed to be engrossed in concurrence, and the House Papers were passed to be engrossed and sent up for concurrence.

Passed to Be Engrossed

Bill "An Act to Create the Maine Fishing Gear Damage Fund" (H. P. 1489) (L. D. 1681)

Was reported by the Committee on Bills in the Second reading, read the second time, passed to be engrossed and sent to the Senate.

Second Reader**Later Today Assigned**

Bill "An Act Relating to Amount of Annual Excise Tax on Railroads" (H. P. 1494) (L. D. 1740)

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

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker and Members of the House: I have an amendment being reproduced and it should be distributed soon. I would appreciate it if someone would table this until later in today's session.

Whereupon, on motion of Mr. Finemore of Bridgewater, tabled pending passage to be engrossed and later today assigned.

Passed to Be Enacted

An Act Relating to Voter Registration of Persons Born United States Citizens in a Foreign County (H. P. 13) (L. D. 21)

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.

Enactor**Tabled and Assigned**

An Act Relating to Pulmonary and Cardiac Diseases under the Workmen's Compensation Act (H. P. 230) (L. D. 286)

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

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: This little gem kind of took my attention as it moved along through both bodies. I had a telephone call last night from one of my towns that has a volunteer fire department. He said, what are you fellows up to up there? Well, I pleaded ignorance, much as I dislike to, and this morning I got out the engrossed bill and I would just like to call it to your attention.

It says, "If any person has been an active member of the municipal fire

department or a volunteer fire fighters association for at least two years prior to a cardio-vascular injury or the onset of a cardio-vascular disease or pulmonary disease, and if said disease has developed or injury has occurred within six months of having participated in fire fighting or training or drills, which actually involves fire fighting, it shall be presumed, unless the employer proves to the contrary by a preponderance of the evidence, that the employee received the injury or contracted the disease arising out of or during the course of his employment."

What this means to many small towns with one or two paid firemen, full time firemen or none at all, depending on a volunteer fire department, these men are not given physical examinations before they go on the job. In fact, in most of these small towns, they would have to travel 20 miles to get a physical examination.

So under this bill, if he was called out and they had a chimney fire and he rode on the truck to the fire and passed up a fire extinguisher to one of the boys on the ladder and within six months of that time he had a heart attack or developed pneumonia, then that town is liable because it happened within six months, and the proof is on the town to prove that passing up that fire extinguisher to someone on the ladder didn't cause his heart trouble. I think this is going a little bit too far and it can be a very, very, very costly item for many of these small towns, so I therefore move that this bill and all its accompanying papers be indefinitely postponed. When the vote is taken, I would ask for a roll call.

The SPEAKER: The gentleman from Hampden, Mr. Farnham, moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. McKERNAN: Mr. Speaker, I move this lie on the table for one legislative day.

Mr. Tierney of Durham requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. McKernan, that this matter be tabled for one legislative day pending the motion of Mr. Farnham of Hampden to indefinitely postpone the Bill and all accompanying papers. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

77 having voted in the affirmative and 33 having voted in the negative, the motion did prevail.

An Act to Exempt Scouting Supplies and Equipment from State Sales Tax (H. P. 521) (L. D. 638)

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

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

House Divided Report — Majority (11) "Ought to Pass" — Minority (1) "Ought Not to Pass" — Committee on Transportation on Bill "An Act Relating to Specially Designed Registration Plates for the Maine National Guard" (H. P. 733) (L. D. 909)

Tabled — April 15, by Mr. Rideout of Mapleton.

Pending — Motion of Mr. Fraser of Mexico to accept the Majority "Ought to Pass" Report.

Thereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

The Chair laid before the House the second tabled and today assigned matter:

Bill "An Act to Amend the General Assistance Laws" (H. P. 1032) (L. D. 1320) — In House, Referred to Committee on Performance Audit. — In Senate, Referred to Committee on Health and Institutional Services in Non-concurrence.

Tabled — April 15, by Mr. Birt of East Millinocket.

Pending — Motion of Mrs. Najarian of Portland to Recede and Concur.

Thereupon, Mr. Birt of East Millinocket requested a vote on the pending motion.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to mention that the Health and Institutional Services Committee has several bills relating to amending the general assistance laws, and this bill goes along with some of those other bills we have already.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mrs. Najarian, that the House recede and concur with the Senate. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

93 having voted in the affirmative and 8 having voted in the negative, the motion did prevail.

(Off Record Remarks)

House at Ease

Called to order by the Speaker.

The Chair laid before the House the following tabled and later today assigned matter:

Bill "An Act Relating to Amount of Annual Excise Tax on Railroads" (H. P. 1494) (L. D. 1740)

Tabled by — Mr. Finemore of Bridgewater.

Pending — Passage to be engrossed.

Mr. Susi of Pittsfield, offered House Amendment "A" and moved for its adoption.

House Amendment "A" (H-164) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: Under the original bill, without the amendment, this tax exemption that is considered under the bill would go into effect henceforth and forever more. Under the amendment the exemption would exist for one year the benefits to Maine Central Railroad would be approximately \$615,000 on a one-shot basis.

I would suggest your support of the amendment. I believe that we consider they are benefitting to the amount of \$615,000 less lobbying expenses of whatever amount. There is still a substantial net that they will benefit from and if it doesn't seem too much to ask that should the occasion arise where they want a half a million again, that they come back and ask for it. To me, the bill would be acceptable with the amendment. I am not terribly torn up about the bill, it isn't in a sense, a major bill, it represents only one tenth of one percent of our annual budget and Maine has lived through this kind of

legislation during most of its history. This has been sort of the order of the day during some century or more of Maine's history and we shouldn't just break it off all at once, we ought to kind of perhaps taper off like a heavy drinker or something.

It is, to me, kind of unfortunate to use six hundred-odd thousand for this purpose because it would support some pretty good programs. I guess perhaps my real concern on this issue is how we ever came to the decision that we did yesterday. You know, most of the time — and I am saying this in absolute seriousness — am so proud of this Maine Legislature and the Maine House and the way it performs compared to what I have seen in years past that I could just about bust. We are improving every session and this is the best I have seen and I think the next session is going to be even better and this just pleases me so much, it truly does, because I was down here long before I ever was a member of the legislature and I used to watch it and there was no question about who was running the show in Maine just a few decades ago. We have improved a lot and I guess perhaps it is with improvement we have built up our expectations. Like today, I would say that this Bobbey-twin was, at least momentarily, disillusioned but I am sure that we will recover our posture and proceed.

I did a little mini-poll on what took place on the vote yesterday so far as one legislator can and checking around with you yesterday afternoon, I would like to tell you what one legislator said, and I think perhaps is the most reasonable response I got. He said, you should know by now, Susi, it just doesn't pay to be rational. There were several in this category who said that they were committed for one vote in support of the bill and they will be released from this commitment after this first vote and so on this vote, I welcome you to the fold and I am glad you are casting off your shackles. A great many have received calls from home from the lumber dealer or the grain dealer or hardware man or whoever gets freight from the railroad at home — so they have called and I have been called by my industries who use the railroad at home and just the most cursory questioning establishes that they have no idea what the bill is all about. They were asked by a freight agent for the railroad or someone to support the bill and given my name and my mailing address and whatnot, so I got a letter. Under those circumstances, I feel no commitment to these people — that they don't know what they are talking about and so I don't think that we have any great responsibility in that area.

Something that I think — and this comes from remarks too — some said well, I had only one call. Well, what was your response to it — well, I said I would go along with the bill. The inference was that since they had only one call they weren't lobbied very much, they were lobbied enough. You see, it was all they wanted was support for the bill and they got it in the first step so they obviously aren't going to call four or five more times.

I would like to describe a lobbying effort a little bit. I know this is a little bit off the subject but I have talked to the subject yesterday and got nowhere so I think I will try something else. It is only when a lobbying effort is inconspicuous that it is effective. It is like hiring these guys to come in and raise funds for your hospital or your school and you give them \$50,000

and why — they don't raise a single cent but they find out who to sic on to who, you see. That is the way lobbying works. They find out who your friends are at home and who has influence with you and get that person to call you and if you suspect you are being lobbied then they aren't doing a good job and they aren't worth all the money they are paid. It is only when they can stay in the background and pull strings and get the job done.

There are some others who told me that well, it is just going to the Appropriation Table and it will be killed anyway there with the six hundred odd thousand price tag on it. I would like to suggest to you today, don't count on that. Come the end of this session, we may not have funds for the catastrophic illness and we may have to put pay toilets in all the state buildings in order to pay for our janitors without a raise but with the beef that this bill has displayed up to this point, I am going to say that our millionaires relief act will still be sailing blithely along.

I would obviously rather win than lose but it is only when we are losing or fighting a real uphill battle that we are productive. When we are always with the majority, then really all we are doing is rubberstamping the status quo, and that isn't productive. We all want improvement and improvement involves change and change comes dry and hard. You have to kind of go against the current.

I think that a vital element in this is the fact that we have staff. We don't need the lobby to the extent that we used to and I remember about six years ago, I had an order in for \$14,000 for a staffer for the Education Committee who was involved with extremely complex legislation as they are now and they needed this help and was voted down overwhelmingly. A year later asked — at the time we had no staff at the Maine Legislature, just absolutely none — the theory was that the big lobby had the most capable people in the State and that they were available to us just for the asking and it was ridiculous to appropriate state money for our own people. Well, five years ago I asked for \$2,000 to be allocated for one staff person for the House Speaker and was ridiculed as totally irresponsible. Well, I don't have to tell you there have been some changes since then and I am thankful for every bit of the changes that has come about. We are no longer bonded to the lobby for answers on things. When we have an issue, such as this one, which is complex and the effect of it isn't obvious, we do have staff to go to and we don't have to take the assessment of the situation that is given to us by the beneficiaries of the bill. I think to that extent this Legislature is still falling short of what it could be doing.

I doubt yesterday, that in my own mind, there was any serious conversation in the support of the bill as it is originally drafted. There were many that stood up and said they favored Maine Labor and they wanted jobs for Maine labor and that they favored Maine industry and they wanted to be certain that Maine industry rolled and in support of railroads and a lot of generalities that we're certainly all in agreement on but if there are serious and considered reasons why we should pass this legislation, to me, and I feel that I am acquainted with the bill, they still haven't been given and I invite such comments here this morning, otherwise, I would appreciate your support of the amendment.

The SPEAKER: The Chair recognizes

the gentlewoman from Madison. Mrs. Berry.

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I thought I heard right. I thought Mr. Susi said he wasn't too concerned about this bill but we heard a lengthy discussion yesterday from him and again this morning. I am sure I would hate to have to sit and listen to him when he really was concerned about a bill.

The contact that I had on this bill was from intelligent people, I am sure. One of the contacts was from a manager of our mill, he is one of the smartest people in the State of Maine. He has kept our mill going when several managers couldn't, he is still keeping it going a few days a week, instead of shutting it down. I am not about to listen to such comments and not stand up for myself. I am not a rubber stamp for anybody and the way I voted yesterday, I will vote again today, if I have to vote. I would just like to say that I know the way I am voting and I have reasons for voting that way.

The SPEAKER: The Chair recognizes the gentleman from Jay, Mr. Maxwell.

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: We, once more this morning, heard a long dissertation. Some of it was not germane to the bill in any way but that is beside the point. I do have in my hand House Amendment "A" and I would like to move indefinite postponement of it at this moment.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't indefinitely postpone the amendment. Yesterday I voted for the bill. I am happier with the amendment. If we enact the bill as it is, the benefit goes entirely to the Maine Central Railroad. With the amendment, I think, we are doing much more. We are giving the benefit to the Maine Central Railroad for one year but at the same time we are guaranteeing, that those employed by the railroad, to persuade the legislature to enact this bill will be guaranteed future employment and perhaps we can spin off a little income tax from the gentlemen who are lobbying. I support the amendment.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I do not understand this issue and I have the feeling that my position is shared by other people in this legislature. Yesterday we voted a million dollars to the spruce budworm spray program and I voted for that and I am extremely concerned to find myself in the position of having to vote on something which is going to cost the state \$600,000 in revenue. So far this session, I have tried to vote against anything that would undercut the tax base of the state. As I understand the theory of this bill and it is without very much research, the Interstate Commerce Commission has provided a system that the incentive per diem system, where if a railroad car from the Maine Central is on someone else's railroad tracks, then that other company has to pay so much to the Maine Central Railroad and that money has to be used for refurbishing of boxcars or construction of new boxcars. What I would like to know from the supporters of this legislation is how does the amount that the Maine Central Railroad is now spending for construction and reconstruction of boxcars

differ from the amount they were spending before? That would be my first question. My second question is, are they spending more for the reconstruction of boxcars and the construction of boxcars than they are receiving through this incentive per diem program? Because if they are, it would seem to me, that then Mr. Susi was correct when he said this is like restricting an individuals funds to buying housing, food and clothing. My question is basically, would they be spending this money for boxcar reconstruction even if it were not restricted to boxcar construction and reconstruction by the Interstate Commerce Commission?

The SPEAKER: The gentleman from Standish, Mr. Spencer, poses several questions through the Chair to any member who cares to answer.

The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: For the members of the House who live in the northern part of the state and they have never been in the Portland area and seen the pitiful and the deplorable condition that happened when they tore down the railroad station in Portland — they tore it down and they put up a shopping center that is half empty. I say to this House today — Union Station was the name of it, I couldn't think of it — when you compare of what has happened to the railroads and the devastating condition that they are in all over this country, any small piece of legislation is very important to keep it going. When I look back years ago, when I played in that area, and saw what we had then and what we have got now, somebody made a terrible, terrible mistake. The City of Portland now has a shopping center that is half empty, the beautiful station is gone. I am not a great outdoors person to admire buildings and things, I never have, and I believe in progress but this was not progress, it was a step backwards and the railroads are hurt. We need them in Westbrook and I say that if there is anything that we can do to help them — I have seen money spent up here that I thought was a pitiful waste of the taxpayers money and I know it is \$600,000, as Mr. Susi says, that I have the greatest respect for, by the way, that we could probably use to help the elderly or help someone who really needs it — we don't question that, but we have an issue before us today of not that, we have the issue before us today of the railroads and that is the issue and it is a very important issue. I would certainly urge the members of this House to support Mr. Maxwell's motion.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, the gentleman from Livermore Falls, Mr. Lynch, has said that this — he used Maine Central which I know he didn't intend to do — but this doesn't cover one railroad, it could possibly be the B&A. I am not going to speak on this amendment other than make that one correction and there will be another amendment following and maybe I can speak then but when the vote is taken, Mr. Speaker, I hope it will be taken by the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Standish deserves an

answer to the question that he raised and if I understood it correctly his question was, how does the amount spent for construction and repairs or reconstruction of boxcars, vary? Now, this is what it did before this incentive per diem was available. I don't think the answer to that is exactly available to us because this is, of course, a corporate decision made in the board rooms of the corporations and you can believe that the corporations do make the decisions based on what is best from their point of view, how they are going to come out and make the most profit, obviously, that is their job.

I would cite this letter which we received. It is a letter that was addressed to Representative Susi. It is dated February 21, 1975 and it is signed by Bradley L. Peters, who is an employee of the Maine Central Railroad, and who has been the source of most of our information, an excellent man to present the railroad's case, a very fine gentleman and in this letter on page 2, it points out the following table will show the number of new plain, unequipped boxcars acquired in the period 1964-1974, either by purchase or a lease plan similar to purchase.

In 1964, the railroad picked up 200 new boxcars. These were ordered in 1963 and therefore, not included for incentive test period averages. In 1965, they had another 200. In 1967, 205. Then they have a gap and I don't think they purchased any in that next three-year period but 1970 they purchased 250. In 1973, they purchased 250; 1974, 250 and the contemplated purchase in 1976 (none mentioned in 1975) is 500.

Now, I would point out to you, ladies and gentlemen, the figure that the gentleman from Pittsfield gave you yesterday of \$30,000 per car is the current estimated cost going up all the time, maybe more than that now, and if you multiply that by 250, you are talking about \$7.5 million, and if you multiply that by 500, you are talking \$15 million. I think the answer has to be that there has been a good supply of cars purchased during this incentive per diem period.

There is no question but the incentive per diem has done what it was designed for as far as the Maine Central Railroad is concerned. It has created additional funds for any railroad. The gentleman from Bridgewater is correct; this bill applies to all railroads. These funds, if they are used to build boxcars or to rebuild old boxcars, are being used the way the ICC intended them to be used and, as I told you yesterday, the direct answer to a question from the same Mr. Peters in the hearing, incidentally, this wasn't the public hearing, this was a second hearing in which there was a further attempt to more deeply inform the committee by the same group, of course, that the money had all been spent for the purpose for which it was intended. It was expensed by the railroad — it was an expense item — I don't know how else to say it. One of the Representatives asked me this morning, did the railroad spend this money and the answer is, yes, they did, for the purpose for which it was intended. So, for them to say that it carries all the way through to the bottom line, in my way of thinking, is "Alice in Wonderland" bookkeeping.

One other question that I would like to address myself to while I am on my feet and that is what the gentleman from Westbrook pointed out, the Union Station has been torn down. I would point out to you that the Union Station was basically a passenger station. We all know the problems the railroads have had with

passenger situation, but the freight continues to build up revenues, continues to be good, and freight, of course, is the area in which the railroad claims is the only one they can make money on.

The gentleman from Bridgewater said this applied to all railroads. I agree. However, this bill right here, ladies and gentlemen, applies to Maine railroads, and there happens to be only two, the Bangor-Aroostook and the Maine Central, and at the present time — well, Louie says three, probably he is right, I am not familiar with the other one off the top of my head, but at the present time the Maine Central is the only one that had the profits in 1974 to become the genesis of this legislation. Bangor and Aroostook is supporting them, obviously, because naturally they hope someday they may be in a position where this would accrue to their advantage. This came about simply because the Maine Central made an excellent profit in 1964, and my priorities, ladies and gentlemen, are different from the gentleman from Westbrook. I think that the elderly people who need to be recognized under the elderly tax and rent refund act with respect to the SSI problems, some of the other people who need help, have a slightly higher priority on my scale than the stockholders of the Maine Central Railroad. That is one of the reasons I am along with the gentleman from Pittsfield, Mr. Susi.

By the time I get done speaking, I am sure you will all have received two more amendments to this bill, and if you look at them a little bit, not only do you get an opportunity to see what the law looks like, because in order to prepare them, they had to write up the law, but also you can see what I am attempting to do. I won't address myself to those amendments at this point in time but I will support this amendment by the gentleman from Pittsfield, Mr. Susi, which limits this largesse, this gift, to the Maine Central to one year. If his amendment is successful, I will not present my two. If his amendment is not successful, I will present the other two. So at this point in time, I do support Mr. Susi's amendment.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I don't intend to go into a long discourse of this as I did yesterday. I will say, however, that the Committee on Taxation received a statement filed by the Maine Department of Transportation. The Maine Department of Transportation explained exactly the way this incentive per diem works as restricted income and they also say that unless the law is changed, the State of Maine would receive windfall money which would be contrary to the objective of the ICC action which was to use the additional revenue to acquire boxcars and improve rail service.

The other thing I would like to bring up that my good friend from Farmington, Mr. Morton, said, that we had a second hearing and it was only the same group that came to promote their cause. I would like to remind the good gentleman from Farmington that it was by a vote of the Taxation Committee that we invited this man back to clarify the law for us. We asked him back and he came back, so I would like to make this clear, they did not come back on their own.

As far as the excellent profit, it was unusual income because they had some sale of property. They won't have this every year, this unusual income, so when

we talk of excellent profits, it can be shaded when you use that word but when it is explained out it does become so excellent.

Today, I would hope that we would still hold the same position we held yesterday when we voted in support of this bill and I would hope that we would have the same overwhelming vote today on the indefinite postponement of this amendment.

The SPEAKER: A roll call has been requested. In order for the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. If you are in favor of a roll call, you will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Jay, Mr. Maxwell, that House Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

YEA — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berube, Birt, Bowie, Call, Carey, Carter, Chonko, Churchill, Connors, Cote, Cox, Curran, P.; Curran, R.; Dam, Dudley, Durgin, Dyer, Farley, Finemore, Fraser, Gould, Hennessey, Higgins, Hinds, Hunter, Hutchings, Ingegneri, Jackson, Jacques, Kany, Kauffman, Kelleher, Kelley, Kennedy, Laffin, Laverty, Lewin, Littlefield, Lizotte, Lovell, Lunt, MacEachern, MacLeod, Mahany, Martin, A.; Maxwell, McBrearty, McKernan, Mills, Miskavage, Nadeau, Najarian, Norris, Perkins, T.; Peterson, P.; Pierce, Quinn, Raymond, Snow, Snowe, Strout, Stubbs, Theriault, Torrey, Tozier, Truman, Twitchell, Usher, Walker.

NAY — Berry, P. P.; Blodgett, Boudreau, Burns, Bustin, Carpenter, Carroll, Clark, Connolly, Cooney, Curtis, Davies, DeVane, Doak, Dow, Drigotas, Farnham, Fenlason, Flanagan, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hughes, Immonen, Joyce, LaPointe, LeBlanc, Leonard, Lewis, Lynch, Mackel, Martin, R.; McMahon, Mitchell, Morin, Morton, Mulkern, Peakes, Pelosi, Perkins, S.; Peterson, T.; Post, Powell, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Smith, Spencer, Sprowl, Susi, Tarr, Tierney, Tyndale, Wagner, Webber, Wilfong, Winship, The Speaker.

ABSENT — Byers, Faucher, Gray, Hewes, Hobbins, Jalbert, Jensen, Palmer, Talbot, Teague.

Yes, 75; No, 65; Absent, 10.

The SPEAKER: Seventy-five having voted in the affirmative and sixty-five in the negative, with ten being absent, the motion does prevail.

Mr. Morton of Farmington offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-165) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I am on my feet this morning fighting for the taxpayers of the State of Maine. That is exactly why I am up here and then for the fact that I think this is, as I said a little earlier, a product of "Alice in Wonderland" accounting.

I want you to take a look at this amendment, because here in this amendment is the substance of how this

law works. You note that it says, when this railroad operating income for the preceding year is less than 5¼ percent of the investment in railroad property used in fast station service less depreciation, plus cash and including such and such, as reported by the railroad in its annual report to the Public Utilities Commission — the tax payable — now they are talking now about this excise tax — shall be diminished by a sum which added to said net railway operating income would equal 5¼ percent of the investment as aforesaid.

Now, the law presently reads, and it has reached this position by dint of excellent railway lobbying over the years. It has presently reached a position where in the last sentence it says, "except that in any event the tax payable shall not be diminished below a minimum amount equal to two" — and the present law says one-quarter of one percent. That's what this amendment does. It changes that one-quarter of one percent to two. I might say that it changes back to two. Now, why do I say that? Because the way this amendment reads today is exactly the way this excise tax law read prior to 1965.

In other words, the railroads were successful over the years in getting the property tax on their right-of-ways changed to an excise tax based on their revenues, and over the years that was reduced from 5½ to 3½, 5¼ down to 3¼, until in 1951, they got this clause in which is, as you read it, ties the amount of this excise tax to their investment, which is a pretty good deal as far as property taxes are concerned. I don't know of anyone else, except perhaps there may be some other utilities, who has this type of a "kicker" in their property tax payments. You get assessed on property taxes, what they are worth in the community in which you live, and I know of no other place where there is a so-called stop-gap or circuit breaker or anything such as this here. But that is the way the law reads and this amendment will change it from the present one quarter to one percent to two percent.

As the statement of fact indicates, this amendment carries out the tax policy adopted way back in 1951 providing for excise tax relief in years of low net railway operating revenue, but it retains the level of excise tax the same as it was prior to 1965. This will reduce the loss of income due from the 1974 excise tax collections from \$619,000 to \$564,980.

Now, this is an amendment which I would like to see passed. It retains pretty much all of the money that we would lose under the law as drafted. I am not in any way attempting to attack the position of the railroads now, that this net income that they have from per diem shouldn't be taken out of their profits. They say it should; you have agreed with them twice and I can't argue with that, so I would say okay, let's go at it this way.

Now, just distributed on your desks is a little picture. I wish it could have been a longer one, I wish I had had more time. This only goes back to 1971 and really pertains to the next amendment, but it gives you an idea of what has happened to the receipts that the State of Maine has had from this excise tax law. If you figure this back of 1971 and realize that in 1971 the figure for the rate is one percent and prior to 1971 it was two percent, you can get an idea of the income that the state used to receive from this tax. But let's look at this sheet right here because it tells the story in a reasonably dramatic way

Back in 1971, the railroad had gross

transportation receipts, that is the total amount of money coming in at the top, \$27 million, and out of that they realized a net operating income of \$2.5 million. Now, it goes through a little gobberly goop to get down to the bottom line, but they were eligible for the minimum. In other words, they weren't in the 3½ to 5½ or 3¼ to 5¼ percent bracket with this kind of net railway operating income when you refer it to the 5¼ percent of their investment. So, they got to the minimum position which, at that time, was one percent. Prior to 1971, it has been two percent but the law was changed 1971. Again, the lobby worked effectively and it got it down to one percent. So, the state received \$233,600 as late as 1971 on this so heinous excise tax which the gentleman Mr. Peters, the railroad characterizes as a very fair excise tax — that is exactly the way he called it, yet when it comes out in print in the brochure, it is an unfair excise tax, but it is very fair and it is fairer at one percent than it was at two percent, obviously, and I don't know how much fairer, is that a thousand percent fairer or a hundred percent fairer? You know, it all depends on which way you are looking at it. Certainly from the standpoint of the taxpayers of the State of Maine, it was only half as fair.

Okay, following along in 1972, they have another \$27 million dollar year, but they must have had some problems because their net was only \$1,028,000, but they were on the way, because under the law, it was on the books and it is currently, although it has now gone by .9, so they only had to pay \$210,000. In 1973 — bingo — now we get down to the quarter of one percent level. Gross transportation receipts were up to \$29.5 million. Net operating income was up to 2.1, not quite so much as in 1971, but still a pretty sizeable slice, but they were still eligible for the minimum, so they are down at the minimum now and they paid \$62,000, ladies and gentlemen, in 1973 on receipts considerably more than they were in 1971 when they paid \$233,000.

In 1974, they proposed to pay on \$33 million worth of receipts, last year, and the net railway operating income of \$3,405,000 — pretty nice increase over what they had been doing the previous years, but they are still at that little old .25 percent, so they are going to have to pay \$71,000. They made quite a bit about this in committee. That is an increase, ladies and gentlemen, that is an increase of about 15 percent in this excise tax, and they felt that was quite an increase. They thought that we ought to be satisfied with that. But I am saying to you ladies and gentlemen that the whole idea of this thing is when you make it, you pay as you're taxed, and I believe that the people of the State of Maine deserve a better break than they are getting with the bill in its original condition, and I hope you will support this amendment, which reduces the railroad's take from \$619,000 down to \$564,980. I urge the adoption of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Jay, Mr. Maxwell.

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: I find myself back up here again, and this time I want to move indefinite postponement of Amendment "B".

The original bill is a very fair bill; it is a very just bill. We gave it a good vote yesterday, and I would hope that we could continue throughout to do this.

All of these attempts to spoil it is exactly what is being done, and I seriously hope you will vote to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I would like to pose a question to Mr. Morton or anyone who could answer it, two questions really. Are there any figures available as to whether this — well, take 1974, this \$3.4 million, what the rate on investment is as opposed to the return on gross receipts? The other question I would pose is, this \$71,000 that they pay in taxes, I assume that is the excise tax as opposed to a state income tax. I wonder if the state income tax is included in the \$71,000 or if that is in addition to the \$71,000.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, poses a number of questions through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker and Members of the House: To answer the gentleman's second question first, no, this does not include income tax. This is merely the excise tax. Income tax is figured separately.

Incidentally, by the way, railroads make a big point of telling us that income taxes can be paid out of this incentive per diem, so they are going to be able to use those incentive per diem dollars that they have carried all the way through to the tail end of the statement to pay their income taxes with, and very fairly so, point out that these will be up — they use a figure over \$400,000. I don't know if that is all income tax or whether that includes this. But, of course, their taxes to the State of Maine are going to be increased, at least on their better operating year, and that certainly is information that the House is entitled to.

Your first question dealt with return on investment. Your pamphlet that you have has these same figures in it. I have them on this sheet of paper here, but the railroad investment that they report is \$66,921,000. Incidentally, ladies and gentlemen, I saw a good example of that investment this morning. I got stopped outside of Readfield Depot, or right in Readfield Depot, by a freight train with three engines on the front, 148 cars and one caboose, and I sat there calculating the value of that. There were some of these nice new boxcars that we have rebuilt over there in the Waterville shop, there were cars from other railroads, which I presume Maine Central was paying out a little bit on as they hauled them over the railroad, and then, of course, there were some more valuable cars of specialized nature, refrigerators and that sort of thing. But if you multiply just the average of empty, plain boxcars at thirty grand apiece times 148 carrying cars out there, you would see just how much of the investment was rolling along the road in front of me this morning. But that investment, Mr. Higgins, is \$66 million — that is the net investment — \$66,921,000, of which 5¼ percent is \$3,848,000, and that is why the railroad would have to pay money this year, because that investment is not — that 5¼ percent is not as small as their return, their net operating income. That is when the stop gap comes in.

If you reduce that, as they have in the same example, by the amount of the per diem, that changes that from \$3,848,000 operating income on the investment from \$3,405,000 of net operating income down to \$479,000. Quite a reduction, obviously, and that is why they came out into the area where they pay the tax on the minimum

only. If they pay it on the minimum, of course, they are at the quarter, that is why I want to put it up to what it was prior to 1965.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker and Members of the House: I would like to pose a question through the Chair to Mr. Morton or anyone else that would answer.

Is the railroad spending more for boxcar reconstruction than it is receiving under the incentive per diem program?

The SPEAKER: The gentleman from Standish, Mr. Spencer, poses a question to the gentleman from Farmington, Mr. Morton, who may answer if he so desires.

The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The way that the gentleman from Standish constructed his question, he said for reconstruction. I can't answer that specifically. I know the position of the railroad is that they have reconstructed a number of boxcars, I forget the number that was stated yesterday in the debate, something in the neighborhood of 150 or 175, and whether this used up all of the \$2.9 million I am not sure. They could use it either for reconstruction or purchase, but their purchases of course exceed this by a great deal.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker and Members of the House: I would like to ask Mr. Morton for a clarification. Do I understand that you are saying then to be that the railroad is spending a great deal more for the purposes for which the incentive per diem funds are restricted than they are receiving in incentive per diem funds?

The SPEAKER: The gentleman from Standish, Mr. Spencer, poses a question through the Chair to the gentleman from Farmington, Mr. Morton, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. MORTON: Mr. Speaker and Members of the House: The answer to that is in the affirmative, and it was given to us in the committee by Mr. Peters.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I have a question I would like to pose to Mr. Morton or anyone else who may answer. In your figures here, Mr. Morton, of \$3.4 million in 1974 does that include incentive per diem?

The SPEAKER: The gentleman from York, Mr. Rolde, poses a question through the Chair to Mr. Morton who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: This is the crux of the whole bill. That is an excellent question.

The contention of the railroad is that this \$3.4 million shown down here on their bottom line, their net railway operating income, does include those funds. Their contention is that they bring them in at the top in the 3353, they have got them in there and they carry them all the way down through and leave them in the bottom line. They launder those dollars and keep them separate from everything else. My contention is that there should be another line in between these two which is expenses and they have spent those dollars

for the purposes for which they were intended and so it specious, it is Alice in Wonderland accounting to say those dollars are down here in the bottom line and only those dollars. I say they are not, they are just dollars, plain unadulterated, ordinary dollars they took in at the top and were left over at the bottom and they don't necessarily coincide with those same dollars and in truth they should not even be considered to be there because they have already been spent.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I almost think I have got a reason to be asked to be excused on this bill, I am so confused. It is really a tough confusion, because I went to the railroad lobby and asked to be instructed on this bill to get some facts and from a gentleman for whom I have only a slightly lower respect than I do for Mr. Morton, I am getting exactly contradictory statements and I know they are both gentleman of high integrity and Mr. Morton has just touched on the very thing that is giving me the trouble as to the manner in which these dollars are handled. When you have two sides of unquestioned probity and integrity saying diametrically opposite things, I feel that perhaps we are saying things or hearing things in the wrong way, that perhaps the language of accounting isn't as easily understood by many of us as it should be and I would sincerely ask that someone put this on the table so that these people might get together and come out with a common decided fact because facts are facts in accounting. We shouldn't be here with these opposed statements and asking us to vote on this. I would hope that someone would table it and I would ask Mr. Morton and Mr. Susi to get together with the people that are opposing them and give us a common statement on which we can vote.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: There is a little misunderstanding here or else I don't understand the bill at all. This money they are setting aside for what we are talking about here, that money can not be all used for reconstructing cars. A certain percentage of that has to be used each year for the purchase of new cars and in case that amount isn't used, it has to be left and that is set up on percentage. So, therefore, I don't think you can find any one year where the railroad has spent the whole of it, due to the fact that they weren't in a position to purchase new cars.

At this time, I will say here I hope this bill isn't tabled and we can go along this morning and get it done. I realize that figures thrown at us here makes it confusing, but I think that is why they have been thrown at us for, to confuse us. I hope you won't table this bill this morning.

Mr. Laffin of Westbrook requested a roll call vote.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I move that this matter lay on the table for two legislative days.

The SPEAKER: The gentleman from Standish, Mr. Spencer, moves that this matter be tabled for two legislative days.

The Chair recognizes the gentleman from Brewer.

Mr. NORRIS of Brewer requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Spencer, that this matter be tabled for two legislative days pending the adoption of House Amendment "B". All in favor of tabling two legislative days will vote yes; those opposed will vote no.

A vote of the House was taken.

67 having voted in the affirmative and 47 having voted in the negative, the motion did prevail.

Mr. Gould of Old Town was granted unanimous consent to address the House.

Mr. GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to call your attention to the fact that John Edward Marks served a half century in law enforcement as a servant of the state. He first had a taste of police work in the summer of 1924 as a motorcycle officer in Gardiner. He enlisted in the Maine State Police April 8, 1925, and up to this point, he served all of his adult life in law enforcement, the most thankless job that anyone can conceive.

When he started, he worked seven days, with the exception of two weeks vacation a year, he worked seven days a week, on call 24-hours a day. How anyone can stand that deal was more than I can tell you. I was lucky, I only had to serve five years without a day off. Anyone would have to serve with him to know what kind of a police officer he was. He was a complete policeman, a loyal, dedicated and faithful police officer. How anyone can stand 50 years in law enforcement is more than I can conceive. (Applause)

On motion of Mr. Gould of Old Town, Adjourned until nine o'clock tomorrow morning.