

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

Stanley, Stevens, A.; Stevenson, Swazey, Telow, Tupper, Webster, M.; Wentworth, Weymouth, Willey, Zirkilton.

NAY - Bost, Bott, Brown, Carter, Chonko, Clark, H.; Clark, M.; Conley, Dellert, Dexter, Duffy, Dutremble, L.; Erwin, P.; Higgins, Hoglund, Holt, Hussey, Jacques, Ketover, Lacroix, LaPointe, Lisnik, Lord, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Michaud, Mills, Mitchell, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Nutting, Paradis, E.; Paradis, J.; Paul, Perry, Pines, Pouliot, Racine, Richard, Ridley, Rolde, Rotondi, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Tammaro, Tardy, Tracy, Vose, Walker, Whitcomb.

ABSENT - Baker, Boutilier, Connolly, Cote, Greenlaw, Gurney, Jalbert, Kimball, Macomber, McPherson, Melendy, Moholland, Nicholson, O'Gara, Priest, Rand, Reeves, Sherburne, Sproul, Strout, B.; Taylor, Thistle, Warren, The Speaker.

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

65 having voted in the affirmative and 62 in the negative with 24 being absent, the motion did prevail. Sent up for concurrence.

(Off Record Remarks)

On motion of Representative Ingraham of Houlton, Adjourned until Wednesday, May 6, 1987, at nine o'clock in the morning.

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

In Senate Chamber
Tuesday
May 5, 1987

Senate called to Order by the President.

Prayer by Reverend Victor Stanley of the First Baptist Church in Gardiner.

REVEREND STANLEY: Let us join our hearts in prayer. Our gracious God, we look to You this morning, although we share many different viewpoints of who You are, we share in common this prayer for assistance. Open our ears to hear one another as You hear us now. Open our minds to understanding better, as You take time to understand us. Open our hearts and fill them with Your love. May everything we do be marked by it. Then open our hands to do the best we possibly can, with the resources available to us, as we endeavor to make this State the greatest state it can possibly be. We pray these things, in the power of Your love. Amen.

Off Record Remarks

Senate at Ease
Senate called to order by the President.

The President requested that the Sergeant-At-Arms escort the Senator from Cumberland, Senator GILL to the Rostrum where she assumed the duties of President Pro Tem.

Senate called to order by the President Pro Tem.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
Non-concurrent Matter

"Bill An Act to Require Legislative Approval and Public Hearings for any Plan to Decentralize the Pineland Center Facility" (Emergency)

H.P. 402 L.D. 536
(C "A" H-74)

In Senate, April 30, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-74), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-74) AND HOUSE AMENDMENT "A" (H-86) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

SENATE PAPERS

Bill "An Act Relating to Notice by Regular Mail Prior to Enforcement of Liens on Real Estate"

S.P. 472 L.D. 1432

Presented by Senator BALDACCI of Penobscot Which was referred to the Committee on TAXATION and ORDERED PRINTED.

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

COMMITTEE REPORTS
House
Ought Not to Pass

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Amend the Farm and Open Space Tax Law"

H.P. 124 L.D. 150

Bill "An Act Regarding the 2-Inch Clam Law"

H.P. 353 L.D. 456

Resolve, to Provide Funds to Mothers Against Drunk Driving

H.P. 442 L.D. 595

Bill "An Act to Create an Opportunity for Community Agency Input to the State Budget Process"

H.P. 493 L.D. 663

Bill "An Act Concerning Occupational Hearing Loss under the Workers' Compensation Act"

H.P. 499 L.D. 669

Bill "An Act Concerning Nonresident Clam Licenses"

H.P. 680 L.D. 921

Bill "An Act Concerning Residency Requirements for Clam Licenses"

H.P. 732 L.D. 984

Bill "An Act to Increase the Maximum Benefits under the Workers' Compensation Act"

H.P. 822 L.D. 1113

Leave to Withdraw

The following Leave to Withdraw Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act Relating to Selling Cigarettes to Persons under a Certain Age"

H.P. 78 L.D. 81

Bill "An Act to Remove Superior Court Jurisdiction in Divorce Actions"

H.P. 535 L.D. 719

Bill "An Act Relating to the Uniform Trade Secrets Act"

H.P. 719 L.D. 970

Bill "An Act to Establish a Procedure for Trial De Novo in Certain Divorce Actions"

H.P. 881 L.D. 1182

Ought to Pass As Amended

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Clarify Definition Language under the Site Location of Development Laws"

H.P. 670 L.D. 903

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-84).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-84)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-84) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

The Committee on EDUCATION on Bill "An Act to Foster the High School Equivalency Program by Removing Fees Imposed on Persons who Participate in that Program"

H.P. 298 L.D. 384

Reported that the same Ought to Pass in New Draft under same title (Emergency).

H.P. 1040 L.D. 1401

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Resolve, to Establish the Commission to Study Adoption Laws and Practices (Emergency)

H.P. 619 L.D. 837

Reported that the same Ought to Pass in New Draft under same title (Emergency).

H.P. 1043 L.D. 1405

Comes from the House, with the Report READ and ACCEPTED and the Resolve in NEW DRAFT PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Resolve in NEW DRAFT READ ONCE.

The Resolve in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act Relating to the Relocation of the Southern Division of the 10th District Court"

H.P. 665 L.D. 898

Reported that the same Ought to Pass in New Draft under same title.

H.P. 1042 L.D. 1404

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act Relating to Initial Plates under the Motor Vehicle Laws"

H.P. 40 L.D. 43

Reported that the same Ought Not to Pass.

Signed:

Senator:

CAHILL of Sagadahoc

Representatives:

SOUCY of Kittery

MILLS of Bethel

CALLAHAN of Mechanic Falls

REEVES of Pittston

MACOMBER of South Portland

SALSBURY of Bar Harbor

MCPHERSON of Eliot

The Minority of the same Committee on the same subject reported that the same Ought to Pass.

Signed:

Senators:

DOW of Kennebec

THERIAULT of Aroostook

Representatives:

MOHOLLAND of Princeton

STROUT of Corinth

POULIOT of Lewiston

Comes from the House the Minority OUGHT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator DOW of Kennebec moved to ACCEPT the Minority OUGHT TO PASS Report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you, Madam President. Ladies and gentlemen of the Senate. I would ask you not to accept the pending motion today. The Transportation Committee looked at this Bill very carefully. What it does is this "An Act to Initial Plates under the Motor Vehicle Laws." Currently, what the Bill would do is offer a special plate for ham radio operators, and while we thought and recognized the services that ham radio operators provide the State of Maine, the Transportation Committee felt because of the new issuance of license plates, that we shouldn't start allowing individual groups special privileges with the motor vehicle laws. Currently, I believe the Motor Vehicle Department testified to say that they would accommodate the ham radio operators under the vanity plate law, and we think that is sufficient. We do recognize all the good things that the ham radio operators provide.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Kennebec, Senator Dow.

Senator DOW: Madam President and members of the Senate. Just to give you a little bit more back ground. As you can see, it is a divided report, 5 one way and 8 the other, so it is fairly even. The firefighters now have a special plate.

They have a special plate because they're out there in emergencies. Some of us on the Committee feel that the ham radio operators do a tremendous service in times of emergency and we made the plate half way between the regular plate and the firefighters plate, in the fact that we charged them a \$5 fee each year for the privilege of having a special plate. So, it is not free and it is a little more money that comes into the Department than it does with the firefighters plate. Just for your information, the Committee had taken care of a number of plates, but some of us felt that this one should be a special plate. Thank you.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion of the Senator from Kennebec, Senator DOW that the Senate ACCEPT the Minority OUGHT TO PASS Report.

Will all those Senators in favor of the motion of Senator DOW of Kennebec to ACCEPT the Minority OUGHT TO PASS Report, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

15 Senators having voted in the affirmative and 14 Senators having voted negative, the motion by Senator DOW of Kennebec to ACCEPT the Minority OUGHT TO PASS Report PREVAILED, in NON-CONCURRENCE.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Resolve, to Create a Commission to Review the Laws Relating to Registered Maine Guides (Emergency)

H.P. 993 L.D. 1339

Bill "An Act to Regulate the Location of Vending Machines Containing Cigarettes"

H.P. 1033 L.D. 1391

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act Relating to Taxation of Aircraft" (Emergency)

H.P. 190 L.D. 234
(C "A" H-77)

Which was READ A SECOND TIME.

Senator ANDREWS of Cumberland moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session pending the motion of Senator ANDREWS of Cumberland to INDEFINITELY POSTPONE the Bill and Accompanying Papers.

Senate As Amended

Bill "An Act Relating to Disclosures When Selling Used Cars"

S.P. 295 L.D. 845
(C "A" S-51)

Which was 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:

An Act Providing Funds for Training and Education for Families of Victims of Alzheimer's Disease

S.P. 151 L.D. 405

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Amend the Interpreter Law for Coverage in Medical and Paramedical Areas

H.P. 961 L.D. 1290

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

ORDERS OF THE DAY

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

Resolve, to Establish a Commission to Study the Feasibility of Constructing a 4-lane Highway from Interstate 95 to the St. John Valley

S.P. 167 L.D. 471
(S "A" S-38)

Tabled - May 1, 1987, by Senator PEARSON of Penobscot.

Pending - FINAL PASSAGE

(In House April 30, 1987, FINALLY PASSED.)

(In Senate, April 24, 1987, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-38).)

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you, Madam President. This particular Bill was inappropriately placed upon the General Funds Special Appropriations Table and should have been placed upon the Special Highway Table.

On motion by Senator DOW of Kennebec, placed on the SPECIAL HIGHWAY TABLE, pending FINAL PASSAGE.

Emergency

An Act to Transfer the Maine Fire Training and Education Program from the Department of Educational

and Cultural Services to the Maine Vocational-Technical Institute System

S.P. 251 L.D. 700 (C "A" S-40)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ENACTMENT.

Emergency

An Act Relating to Social Worker License Fees

H.P. 1003 L.D. 1350

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senators having voted in negative, and 26 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.

The President Pro Tem requested that the Sergeant-At-Arms escort the Senator from Penobscot, Senator PRAY to the Rostrum where he resumed his duties as President.

The Sergeant-At-Arms escorted the Senator from Cumberland, Senator GILL to her seat on the Senate floor, amid applause, the members rising.

The Senate called to order by the President.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Prohibit Candidates from Receiving, Witnessing or Accepting Absentee Ballots"

H.P. 1058 L.D. 1433

Comes from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act to Create a Maine National Historic District Sign Program"

H.P. 1059 L.D. 1434

Comes from the House referred to the Committee on TRANSPORTATION and ORDERED PRINTED.

Which was referred to the Committee on TRANSPORTATION and ORDERED PRINTED, in concurrence.

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

COMMUNICATIONS

The Following Communication:

COMMITTEE ON ENERGY AND NATURAL RESOURCES ONE HUNDRED AND THIRTEENTH LEGISLATURE

May 4, 1987

The Honorable Charles P. Pray President of the Senate of Maine State House

Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 113th Maine Legislature, the Joint Standing Committee on Energy and Natural Resources has had under consideration the nomination of Carol A. Tracy of Lewiston, for appointment to the Board of Environmental Protection.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this

nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 3 Representatives 10

NAYS: 0

ABSENT: 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Carol A. Tracy of Lewiston, for appointment to the Board of Environmental be confirmed.

Sincerely, S/Ronald E. Usher Senate Chair S/Michael H. Michaud House Chair

Which was READ and ORDERED PLACED ON FILE.

THE PRESIDENT: The Joint Standing Committee on ENERGY AND NATURAL RESOURCES has recommended the nomination of Carol A. Tracy of Lewiston be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on ENERGY AND NATURAL RESOURCES be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 113th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BERUBE, BLACK, BRANNIGAN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, ERWIN, ESTES, GILL, GOULD, KANY, KERRY, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TUTTLE, TWITCHELL, USHER, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators None

ABSENT: Senators BALDACCI, BRAUN, BUSTIN, EMERSON, GAUVREAU

No Senators having voted in the affirmative and 30 Senators having voted in the negative, with 5 Senators being absent, and none being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Carol A. Tracy, of Lewiston, for appointment to the Board of Environmental Protection was CONFIRMED.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

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

COMMITTEE REPORTS

House

Change of Reference

The Committee on FISHERIES AND WILDLIFE on Bill "An Act to Require that the State Bear the Cost of Fencing Orchards which are Damaged by Moose or Deer"

H.P. 326 L.D. 425

Reported that the same be REFERRED to the Committee on AGRICULTURE.

Comes from the House with the Report READ and ACCEPTED and the Bill REFERRED to the Committee on AGRICULTURE.

Which Report was READ and ACCEPTED, in concurrence.

The Bill REFERRED to the Committee on AGRICULTURE, in concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Clarify the Laws for Transmission of Electric Power to Study Related Issues"

H.P. 131 L.D. 160

Tabled - May 4, 1987, by Senator KERRY of York.
Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-82)

(In House, May 1, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-82).)

(In Senate, May 4, 1987, Committee Amendment "A" (H-82) READ.)

On motion by Senator CLARK of Cumberland Tabled until Later in Today's Session, pending ADOPTION OF COMMITTEE AMENDMENT "A" (H-82).

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Establish a State Nuclear Safety Program for Commercial Nuclear Power Facilities in the State"

H.P. 1053 L.D. 1416

Tabled - May 4, 1987, by Senator CLARK of Cumberland.

Pending - REFERENCE

(In House, May 4, 1987, referred to the Committee on UTILITIES and ORDERED PRINTED.)

On motion by Senator CLARK of Cumberland, referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED in NON-CONCURRENCE.

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

Senate at Ease

Senate called to order by the President.

Senator PEARSON was granted unanimous consent to address the Senate off the Record.

Senator CLARK of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator PERKINS was granted unanimous consent to address the Senate off the Record.

On motion by Senator WHITMORE of Androscoggin, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

Bill "An Act Relating to Taxation of Aircraft" (Emergency)

H.P. 190 L.D. 234
(C "A" H-77)

Tabled - May 5, 1987, by Senator CLARK of Cumberland.

Pending - The motion of Senator ANDREWS of Cumberland to INDEFINITELY POSTPONE the Bill and Accompanying Papers.

(In Senate, May 5, 1987, READ A SECOND TIME.)

(In House, May 1, 1987, PASSED TO BE ENGROSSED, as Amended BY COMMITTEE AMENDMENT "A" (H-82).)

Senator TWITCHELL of Oxford requested a Division.

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

Senator ANDREWS: Thank you, Mr. President. Men and women of the Senate. I would like to ask your indulgence on this particular Bill today. I have asked for the Indefinite Postponement, because while this Bill has apparently tremendous support both in the Committee and from many here in this chamber, I thought this Bill was flying through too quickly for a Bill of this kind, to be let go quite as easily as it is being done. The question that I have here is not with regard to the service that it provides to Maine communities. Bar Harbor Airlines, Eastern Airlines provides a tremendous service to small communities throughout Maine. No one can talk about the importance of infrastructure to the economy in this State, particularly in those regions. No one needs to tell me about that, with my work on the Joint Standing Committee on Economic Development. I have found that infrastructure can be vital. Transportation can be vital to all areas in the State. My problem with this Bill is not that it assists Maine's effort to provide for transportation and strong infrastructure to Maine communities, particularly to Northern Maine. My problem with this Bill, and the reason that I have asked for its' indefinite postponement is how it does it. This Bill is a special interest tax loop hole Bill. If you take a look at what we are doing here, and I urge you to do it, you'll see that we are looking at taking a special section of our tax law dealing with sales tax exemptions. Then we are adding to it an exemption for air craft that are leased in interstate commerce. The law, as it stands right now, says very simply that if you purchase a piece of equipment to be used in interstate commerce, you do not pay a sales tax. But, if you lease a piece of equipment for interstate commerce, you pay the sales tax.

This Bill, as we read in the Emergency Preamble, resolves this disparity. The problem that I have is that this Bill creates an even larger disparity in trying to address disparity between leased and purchased air craft.

A little history lesson: In 1984, Bar Harbor Airlines came in for the first time to this Legislature and asked for this special exemption. Bar Harbor Airlines was on the brink of bankruptcy. They complained of high interest rates in purchasing their equipment. They told us that they were in serious trouble. They asked for a special tax break for one year and one year only to help them get out of this very difficult situation.

One Senator, during that debate said on the floor of the Senate back in 1984: "I think it is a fair and equitable way of assisting a Maine company that evidently is some trouble and needs some help." Bar Harbor Airlines was in trouble in 1984. They were in so much trouble they failed to pay their State taxes and they were in court with the Attorney General's office in trying to resolve that particular problem. In fact, a summit was reached and I understand this Company is still paying off the back taxes that it is able to pay back before 1984.

The estimated cost of that loop hole was 1.5 million dollars. In 1985, we extended that loop

hole. They came back into the Legislature, they still claimed that they were having some trouble and needed special exemptions and we gave it to them at a cost of 1.2 million dollars. That is a total cost of 2.7 million dollars, of just what we know. How much we lost in the out of court settlement, because of their failure to pay their taxes, we still do not know. At least we know that we have footed a 2.7 million dollar bill for them.

There is another group of Maine businesses out there that feel that this particular tax policy that we now have on the books, that this Bill seeks to address, is also unfair. That group of people are the small business people who own or lease their own rigs, their own trucks and provide vital transportation to those areas of the State that would have otherwise have no transportation. They are small businesses. Because they are small, they particularly don't have the resources to go in and buy this equipment. So, they lease their equipment and because they lease their equipment, they have to pay the sales tax. They too, have come before us. They too have complained about disparity. They too have asked for a sales tax exemption on their leased equipment. We have said No to them. We have said No to them, consistently.

We have a Bill that addresses this disparity, not for transportation carriers across the board, including those small truckers, but addressing a tax disparity by singling out one industry and one corporation and saying "We are going to give you this tax break, and we are not going to give it to anybody else, including those who provide transportation on the ground through trucks." If you look at the fiscal note on this particular version, of this tax loop hole, the 1987 version loop hole, you will see that it is going to cost us 2.4 million dollars in year one, 2.6 in year two, for a total price tag of over 5 million dollars. To one industry and one business. Now, that is my definition of special tax loop hole legislation.

I am not trying to say before this chamber that we shouldn't look closely at our infrastructure. I am not saying that we should disregard companies that are in trouble. There are many ways to address our infrastructure problems and there are many ways to address the problems of businesses that are in financial trouble. But, we have a tax loop hole of over 5 million dollars to one corporation. By the way, this corporation is part of the largest corporation of air carriers in the United States. That is Texas Air. They buy out airlines like you and I buy our socks. It is a very large company. The largest in the United States. They have tremendous resources. Tremendous capital at their disposal. We are giving them a 5 million dollar tax break, when our small businesses that exist in Maine, that can't threaten to move to New Hampshire, or can't threaten to move out because they are small businesses and they are Maine businesses, ask us for the same consideration year in and year out and we can't give it to them.

If we want to provide a tax break to this company then we should address it either by extending the same consideration across the board to all carriers, or allow this company to pay the sales tax, then if we feel they need additional capital because they are in trouble, then have them come to us and we can write them a check for 5 million dollars.

Every time you go into our tax code and create one more loop hole, you keep creating more loop holes. Back in 1984, the then Chairman of the Taxation Committee, Senator Wood from York said in his debate and I quote [My reason for opposing this

Bill, is because we are opening a door, we're setting a precedent for an exemption that I don't think is warranted. We are assuming that air lines are different from buses or railroad cars or any other form of interstate commerce and are excluding these groups, but including airplanes.] He worried about precedent. We gave them a one year exemption because they were in trouble in 1984. We gave them a two year exemption because they came to us in 1985 and now they are coming to us again. Part of one of the largest airline conglomerates in the United States.

I ask you to support my motion for indefinite postponement. Not because we are going to ignore the small cities and towns who need transportation services. Not because we're ignoring the needs and concerns of a company who comes to us seeking assistance and consideration. But because we need to do it fairly and need to do it on the basis of a tax policy that is across the board and applies to everybody equally and no special exemptions. No special loop holes to large corporations who have the capacity to come before us and ask for it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Twitchell.

Senator TWITCHELL: Thank you, Mr. President and members of the Senate. I hope that you will vote against the pending motion and stick with me on this 11 to 2 report, Ought to Pass.

I have had this Bill before the Taxation Committee for the last 5 or 6 years. Four years ago, Bar Harbor Airlines came to us and they wanted to expand their operation but did not have the capital to do so.

They asked us if they leased their aircraft, if they could get an exemption. We agreed to do so. In 1985 they came back to us again and asked if we would extend that exemption for another 2 years and we agreed to do so. They have come to us this year and they have asked us to extend that exemption another 2 years and I hope that I can say that we will do so.

In the last 4 years, Bar Harbor Airlines has tripled the number of airplanes and service, it has tripled its' workforce in from 339 people to 750. It is going to be building some new hangars in Portland. It is going to be building some new hangars in Bangor and a new office space in Bangor. I think it is a worthwhile company. Everything that Bar Harbor Airlines has done has been up front and truthful to us. They have fulfilled their commitment to us and I hope you will support me.

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

Senator PEARSON: Mr. President. Men and women of the Senate. There aren't very many airlines in this country that would be willing to service the areas that Bar Harbor Airlines services. There are not many airlines that even can service those areas. Frenchville in Aroostook, Lewiston-Auburn, Augusta, Waterville are some of the airports that big airliners either cannot get into because of the physical nature of the airfield or because the market is too thin in order for them to make a living.

As far as Northern Maine is concerned, there are not an awful lot of ways to get in and out of that area. If you have an airline that will service you, I am not very quick to say that we're not willing to accommodate them in order to keep them. We are in danger of losing a bus service in Northern Maine. We did once. If the company that now has it, which operates out of Old Town, can't make a go of it, they are going to discontinue their line into Aroostook County in the future. With regard the point that the Senator from Cumberland, Senator Andrews made about small businesses not being treated fairly and

equally, especially trucks. Gee, it wasn't very long ago when we had the railroads come in here and thought that they ought to have a rail policy because they were being discriminated against because trucks were being so heavily subsidized. Don't make any mistake about it. Trucks get subsidized every time they go out on our highways in this State of Maine. We built them and we maintain them.

If there is anybody that gets a subsidy, it is the trucking industry in this State. We couldn't do without them, that is for sure. Especially if you live down in Washington County, Hancock County and those places. Nevertheless, they are not being neglected by the State of Maine as far as being serviced by this State.

This Bill provides a provision in it that says that you can't have a tax exemption unless you are based in Maine. They are based in Maine. They do have a lot of jobs and they are providing an increasing volume of jobs every single year. They have kept every promise that they have made to us and I think that is a pretty good track record.

I don't think I even have to mention to most of you, in here, that as far as Bar Harbor Airlines is concerned, this is not the only time we have given anybody a tax break in this State. You will have to forgive me but from purely parochial point of view, most of them have not been in my end of the State. They have been in the other end of the State.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Theriault.

Senator THERIAULT: Thank you, Mr. President. Members of the Senate, I just wish to voice my opposition to this motion and I want you to understand that if this Bill dies, that the air transportation that we have in my part of the State, the Saint John Valley, will die along with it. So, I hope you will consider this very seriously when you finally vote on this motion. Part of Bar Harbor Airlines was born in Frenchville Maine. It was known as the Valley Airlines. Valley Airlines grew and progressed and struggled in order to provide us with a service and often times, at a loss. At some point in time it merged with Bar Harbor Airlines and it is still struggling. I am sure that the service that they are providing in that part of the State is not done at a profit, but more as a service, as a dedication to provide us with that needed transportation.

I would also say that we are way up there far from everything. Occasionally, we call upon that airline for med-i-vac purposes. We fly patients to Bangor, to Portland or elsewhere. Without that airline, that service would no longer exist. So, because of those facts and because our numbers are few up in the Valley, it does not mean that we are not allowed, or should not be allowed to have a service that is provided to a lot of other parts of the State. I hope and I urge and I ask you to vote against this motion, so that we, in my part of the State, can continue to be, at least, part of the whole State. Thank you.

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

Senator KANY: Mr. President and members of the Senate. I plan to vote against the pending motion and in favor of the tax exemption, in recognition of the service that is provided to Maine's small communities. I do want to let Bar Harbor Airlines to know that I am not all that happy with the service that is provided to the Waterville area. In fact, three times in the last year, I had reservations out of Waterville and the plane that actually left the City of Bangor did not stop in Waterville.

Subsequently, if I needed to be in a certain place at a certain time, limited time, I have made my reservations out of Portland. I think that is a darned shame. So, I would like the airline to know that in the future, if the service does not improve in the Waterville area, I certainly will vote against subsequent requests. Thank you.

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

Senator BALDACCI: Thank you, Mr. President. Mr. President, men and women of the Senate. I was here when we debated this issue a few years ago. I sat down in the front row when Senator Wood, at that time, the Chairman of Taxation, sat behind me and I remember that so well as he always would slip down and hiss everytime I got up to speak and disagree with him. I remember those times in the front row as a Freshman Senator. The issue back then was that before Bar Harbor Airlines made the lease arrangements to lease their aircraft, they realized they would have to be under a sales tax and pay that sales tax, whereas if they purchased the aircraft, they wouldn't have to pay the sales tax. So, to me that didn't make very much sense. Usually when you pay for something and acquire ownership, at that time you pay a sales tax.

Why then, if you were leasing it, would you be obligated to pay the sales tax of the entire cost? This is an exemption that would allow them to lease without paying sales tax, which to me, just makes sense. I think it is a quirk in the law. Most important, we're talking about Bar Harbor Airlines. It is not a multi-national corporation. It isn't a corporation that is based outside of the State of Maine or outside of the United States. It is a company that is based in Bangor. It is a family business. When I hear talk about we're giving them 5 million dollars, you are not giving them anything, because they have been offered just about by every single state in the northeast, to acquire an area to set up their base for operation, to be the largest regional aircraft commuter service in the country. In the United States of America. But, this is a Bangor family. It is a family that has survived tragedy, there the father and brother died in an air crash. They love Bangor and the area. They love Maine and the area and they want to stay here.

The quirk in the law was if you bought it, you didn't pay sales tax but if you leased it, you did. That is the problem and that is the exemption in the law that specifically states that they have to stay here as a base of operation. It is nothing out of the treasury. It never has been anything out of the treasury and if they couldn't get it, they wouldn't be here.

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

Senator WHITMORE: Thank you, Mr. President. Men and women of the Senate. Hailing from the second largest population base in the State of Maine that is serviced currently by Bar Harbor Airlines, I am a little torn on this issue.

Just recently Bar Harbor Airlines has petitioned Washington to reduce the level of service to the Lewiston-Auburn area. I am torn because now I am asked to stand and be counted on whether they should receive an exemption when they clearly have not met, in my opinion, the agreement that was agreed upon for the level of service to the Lewiston-Auburn Airport, for a number of years.

In response to the petition to reduce the level of service, the airport committee did some research and we have discovered that although they were the airline that was supposedly servicing the community,

they had done less in the way of advertising trying to build enplanements than Delta had, through the Portland Jetport. That does not seem reasonable to me, for an airline that is crying about the level of enplanements that is taking place at that facility and yet having an airline 35 miles away spending more money to develop business.

It seems quite counter-productive, at least from my aspect of the business community. I am also troubled with the divestiture of the stock from the local family to the free world's largest airline. Whether that can be used as a conduit for leasing aircraft to be sub-leased to one of the several arms that they have throughout the country. So, I will ask the men and women of the Senate, before you do cast your vote, is Bar Harbor really living up to their word in supplying the necessary transportation services to the State of Maine, before granting this exemption. Thank you.

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

Senator ANDREWS: Thank you, Mr. President. Men and women of the Senate. I simply would like to reiterate and very clearly that we are not talking about whether or not we are going to support communities in Northern Maine and the issue is not whether we are going to accept or not a tax policy that makes no sense. The issue before us is how we are going to address those concerns. There are transportation and infrastructure problems facing Northern Maine. Yes, we have to address those problems and yet, we are addressing those problems. There are infrastructure proposals before this body, front and center and we are looking at them very seriously. There are economic proposals and initiatives for all areas of the State, including Northern Maine that we are looking at very, very seriously. We are concerned about those regions because those regions are vital to the State's economy as a whole. It is not a question of do we support or not support Northern Maine. That is not the issue. The issue is whether or not we are going to support a tax bill that singles out one corporation. A corporation that is a Maine based corporation, perhaps. A family business, perhaps. But, a corporation, none the less, and unless I am mistaken, is at least half owned by the single largest corporation in the United States.

Where this subsidy goes, where this 5 million dollars go, who knows? But, the fact is that that corporation has much greater capacity to meet its' capital needs and the small truckers and the small business people who we explicitly discriminate against in this piece of legislation. Those rigs go to Northern Maine. Those rigs go to more remote areas of this State than any airline does.

They are a vital link to some of those communities and the rest of this State and even markets outside of this State. They, too are asking us to address this tax disparity. What we are doing, ladies and gentlemen of the Senate, the way we are choosing to deal with this particular corporation, is to single them out for special treatment and that is my problem.

It is pure and simple. Special treatment, special loop hole to one corporation and one industry. If we are serious about the problem and we're serious about infrastructure in those areas, let's provide a policy that goes across the board, but let's not single out one corporation for special treatment. In my opinion, we are dealing with a hand out to single corporation. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion of Senator ANDREWS of Cumberland

to INDEFINITELY POSTPONE the Bill and Accompanying Papers.

A Division has been requested.

Will all those Senators in favor of the motion of Senator ANDREWS of Cumberland to INDEFINITELY POSTPONE the Bill and Accompanying Papers, please rise in their places and remain standing until counted.

Will all those Senators opposed please rise in their places and remain standing until counted.

5 Senators having voted in the affirmative and 28 Senators in the negative, the motion of Senator ANDREWS of Cumberland to INDEFINITELY POSTPONE the Bill and Accompanying Papers, FAILED.

Which was PASSED TO BE ENGROSSED, as Amended, in concurrence.

Off Record Remarks

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

Bill "An Act to Clarify the Laws for Transmission of Electric Power to Study Related Issues"

H.P. 131 L.D. 160

Tabled - May 5, 1987, by Senator CLARK of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-82)

(In House, May 1, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-82).)

(In Senate, May 4, 1987, Committee Amendment "A" (H-82) READ.)

On motion by Senator KERRY of York, Senate Amendment "A" (S-52) to Committee Amendment "A" (H-82) READ and ADOPTED.

Committee Amendment "A" (H-82) as Amended by Senate Amendment "A" (S-52), thereto ADOPTED in NON-CONCURRENCE.

Which was PASSED TO BE ENGROSSED as Amended in NON-CONCURRENCE.

Sent down for concurrence.

Off Record Remarks

The Chair appointed Senator USHER of Cumberland to serve as President Pro Tem for the Session on May 6, 1987.

Off Record Remarks

Senate at Ease

Senate called to order by the President.

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

On motion by Senator DUTREMBLE of York, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Authorize a Bond Issue in the Amount of \$4,300,000 for Constructing and Equipping Centers for Advanced Technology that Service the Economic Development Needs of Maine"

S.P. 220 L.D. 601

(Committee on ECONOMIC DEVELOPMENT suggested and ORDERED PRINTED.)

In Senate, May 4, 1987, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Comes from the House referred to the Committee on ECONOMIC DEVELOPMENT and ORDERED PRINTED in NON-CONCURRENCE.

Senator PEARSON of Penobscot moved to ADHERE.

Senator ANDREWS of Cumberland moved to RECEDE and CONCUR.

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

Senator PEARSON: Thank you Mr. President, under the rules of parliamentary procedure, the motion to Recede and Concur takes precedence over the motion to Adhere. So, consequently, I would ask the Senate to reject the motion to Recede and Concur so that the Senate could Adhere.

THE PRESIDENT: The pending question before the Senate is the motion of Senator ANDREWS of Cumberland to RECEDE and CONCUR.

The Chair will order a Division.

Will all those Senators in favor of the motion of Senator ANDREWS of Cumberland to RECEDE and CONCUR, please rise in their places and remain standing until counted.

Will all those Senators opposed please rise in their places and remain standing until counted.

10 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion of Senator ANDREWS of Cumberland to RECEDE and CONCUR, FAILED.

On motion by Senator PEARSON of Penobscot, the Senate ADHERED.

Sent down for concurrence.

Non-concurrent Matter

Bill "An Act to Amend the Marriage Prohibitions Based on Consanguinity" (Emergency)

H.P. 1002 L.D. 1348

In House, May 1, 1987, PASSED TO BE ENACTED.

In Senate, May 4, 1987, FAILED ENACTMENT.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-90) in NON-CONCURRENCE.

Senator CAHILL of Sagadahoc moved to ADHERE.

Senator BRANNIGAN of Cumberland moved to RECEDE and CONCUR.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President, ladies and gentlemen of the Senate. Very quickly, what the amendment that is attached to this Bill would do is remove the emergency. This is the Bill that we had yesterday that allowed marriages between first cousins. I am opposed to that and would ask you to vote against the motion to Recede and Concur.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BRANNIGAN of Cumberland to RECEDE and CONCUR.

The Chair will order a Division.

Will all those Senators in favor of the motion of Senator BRANNIGAN of Cumberland to RECEDE and CONCUR,

please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator BRANNIGAN of Cumberland to RECEDE and CONCUR, PREVAILED.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator GILL of Cumberland, ADJOURNED until Wednesday, May 6, 1987, at 9:00 in the morning.