

MAINE STATE LEGISLATURE

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

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 2, 1992 to May 13, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
27th Legislative Day
Tuesday, March 16, 1993

The House met according to adjournment and was called to order by the Speaker.
Prayer by Father John J. Moriarty, Portland.
The Journal of Monday, March 15, 1993, was read and approved.

At this point, Representative Michaud of East Millinocket was appointed to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

SENATE PAPERS

Later Today Assigned

Bill "An Act to Amend the Workers' Compensation Laws for Workers in Certain Marine Resources Industries" (S.P. 290) (L.D. 860)

Came from the Senate, referred to the Committee on **Banking and Insurance** and Ordered Printed.

On motion of Representative Mitchell of Freeport, tabled pending reference in concurrence and later today assigned.

Bill "An Act to Allow the Bureau of General Services to Provide Insurance Services for Elementary and Secondary Schools in the State" (S.P. 297) (L.D. 883)

Came from the Senate, referred to the Committee on **Banking and Insurance** and Ordered Printed.

Was referred to the Committee on **Banking and Insurance** in concurrence.

Bill "An Act Requiring School Suspension or Expulsion in Cases Involving Dangerous or Concealed Weapons" (S.P. 287) (L.D. 857)

Came from the Senate, referred to the Committee on **Education** and Ordered Printed.

Was referred to the Committee on **Education** in concurrence.

Bill "An Act to Amend the Municipal Subdivision Laws" (S.P. 300) (L.D. 886)

Came from the Senate, referred to the Committee on **Energy and Natural Resources** and Ordered Printed.

Was referred to the Committee on **Energy and Natural Resources** in concurrence.

Bill "An Act Regarding the Penalty for Failing to Register a Deer" (S.P. 289) (L.D. 859)

Came from the Senate, referred to the Committee on **Fisheries and Wildlife** and Ordered Printed.

Was referred to the Committee on **Fisheries and Wildlife** in concurrence.

Bill "An Act to Amend the Laws Governing the Effect of a Tender in Foreclosure Actions" (S.P. 291) (L.D. 861)

Bill "An Act to Clarify Mandatory Waiver Authority Concerning Construction Requirements" (S.P. 292) (L.D. 862)

Bill "An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions" (S.P. 293) (L.D. 880)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

Were referred to the Committee on **Judiciary** in concurrence.

Bill "An Act to Extend the Commission to Study the Future of Maine's Courts" (EMERGENCY) (S.P. 303) (L.D. 919)

Came from the Senate, referred to the Committee on **Judiciary** and Ordered Printed.

Under suspension of the rules, without reference to a committee, the bill was read twice, passed to be engrossed in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Bill "An Act to Reform the Campaign Finance Laws" (S.P. 296) (L.D. 882)

Came from the Senate, referred to the Committee on **Legal Affairs** and Ordered Printed.

Was referred to the Committee on **Legal Affairs** in concurrence.

Bill "An Act Regarding County Contingent Account Limits" (S.P. 286) (L.D. 856)

Bill "An Act to Reestablish a Portion of the Boundary between Lincoln and Kennebec Counties" (S.P.

288) (L.D. 858)

Bill "An Act Regarding Lobbying" (S.P. 295) (L.D. 881)

Bill "An Act to Create a State Municipalities Investment Pool" (S.P. 298) (L.D. 884)

Bill "An Act to Implement Constitutional Provisions Requiring the Funding of Mandates Imposed on Local Units of Government" (S.P. 299) (L.D. 885)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

Were referred to the Committee on **State and Local Government** in concurrence.

Later Today Assigned

Resolve, to Obtain Land for the Construction of a Juvenile Detention Center in Northern Maine (EMERGENCY) (S.P. 301) (L.D. 917)

Came from the Senate, referred to the Committee on **State and Local Government** and Ordered Printed.

On motion of Representative Joseph of Waterville, tabled pending reference in concurrence and later today assigned.

Bill "An Act to Amend the Laws Concerning Utility Taxes" (S.P. 302) (L.D. 918)

Came from the Senate, referred to the Committee on **Taxation** and Ordered Printed.

Was referred to the Committee on **Taxation** in concurrence.

Divided Report

Majority Report of the Committee on **Legal Affairs** reporting "Ought Not to Pass" on Bill "An Act Regarding the Purchase of Spirits at State Liquor Stores" (S.P. 91) (L.D. 245)

Signed:

Senators: CAREY of Kennebec
HALL of Piscataquis

Representatives: DAGGETT of Augusta
MICHAEL of Auburn
BOWERS of Washington
STEVENS of Sabattus
BENNETT of Norway
NASH of Camden
ROBICHAUD of Caribou
TRUE of Fryeburg

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Signed:

Senator: HANDY of Androscoggin

Representative: GAMACHE of Lewiston

Came from the Senate with the Reports read and the Bill and accompanying papers recommitted to the Committee on **Legal Affairs**.

Reports were read.

On motion of Representative Daggett of Augusta, the Majority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

COMMUNICATIONS

The following Communication: (S.P. 294)

116TH MAINE LEGISLATURE

March 10, 1993

Senator Gerard P. Conley, Jr.
Rep. Constance D. Cote
Chairpersons
Joint Standing Committee on Judiciary
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Leigh Ingalls Saufley of Portland for appointment as a Justice of the Maine Superior Court.

Pursuant to the Constitution, Article V, Part 1, Section 8, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on **Judiciary**.

Was Read and Referred to the Committee on **Judiciary** in concurrence.

The following Communication: (H.P. 684)

COMMISSION TO STUDY THE FUTURE
OF MAINE'S COURTS

March 10, 1993

The Hon. John L. Martin
Speaker of the House

Maine House of Representatives
Augusta, ME 04333

Dear Speaker Martin:

On behalf of the Commission to Study the Future of Maine's Courts, it is my pleasure to present to you our final report entitled "New Dimensions for Justice."

Sincerely,

S/Harriet P. Henry, Chair

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

The following Communication:

116th Maine Legislature

March 15, 1993

Honorable Joseph W. Mayo
Clerk of the House
State House Station #2
Augusta, ME 04333

Dear Clerk Mayo:

Pursuant to our authority under Chapter 854 of the Public Laws of 1992 (MRSA 5, Sec. 3307-E), we have appointed Nicholas S. Karvonides of Biddeford to the Task Force on Defense Realignment and the Economy.

Please let us know if you have any questions regarding this appointment.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Was read and ordered placed on file.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Aging, Retirement and Veterans

Bill "An Act to Clarify the Definition of Teacher under the Laws of the Maine State Retirement System" (H.P. 680) (L.D. 922) (Presented by Representative PFEIFFER of Brunswick) (Cosponsored by Representatives: OLIVER of Portland, RICHARDSON of Portland, TUFTS of Stockton Springs, Senator: AMERO of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Education

Bill "An Act to Amend the School Funding Formula" (H.P. 682) (L.D. 924) (Presented by Representative SKOGLUND of St. George) (Cosponsored by Senator PINGREE of Knox and Representatives: ADAMS of Portland, GRAY of Sedgwick, HEINO of Boothbay, KERR of Old Orchard Beach, MELENDY of Rockland, SIMONEAU of Thomaston)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Amend the Underground Oil Storage Tank Replacement Fund" (EMERGENCY) (H.P. 681) (L.D. 923) (Presented by Representative JACQUES of Waterville) (Cosponsored by Senator LUDWIG of Aroostook and Representatives: ANDERSON of Woodland, COLES of Harpswell, CONSTANTINE of Bar Harbor, GOULD of Greenville, LORD of Waterboro, MARSH of West Gardiner, Senator: CIANCHETTE of Somerset)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act to Authorize Video Gaming" (H.P. 683) (L.D. 925) (Presented by Representative PLOURDE of Biddeford) (Cosponsored by Senator CONLEY of Cumberland and Representatives: AHEARNE of Madawaska, ALIBERTI of Lewiston, CARON of Biddeford, CARROLL of Gray, CASHMAN of Old Town, DIPIETRO of South Portland, DRISCOLL of Calais, DUTREMBLE of Biddeford, GEAN of Alfred, GOULD of Greenville, GRAY of Sedgwick, HATCH of Skowhegan, HICHBORN of Howland, LIBBY of Buxton, LORD of Waterboro, MARTIN of Van Buren, MORRISON of Bangor, O'GARA of Westbrook, POULIOT of Lewiston, RICKER of Lewiston, SWAZEY of Bucksport, THOMPSON of Lincoln, TOWNSEND of Eastport, TUFTS of Stockton Springs, VIGUE of Winslow, Senator: VOSE of Washington)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act to Authorize the Operation of Articulated Buses on Maine Highways" (H.P. 679) (L.D. 921) (Presented by Representative BAILEY of Farmington) (Submitted by the Department of Transportation pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

Recognizing:

the Calais Lady Blue Devils Basketball Team, winners of the State Class C Basketball Championship; (HLS 167) by Representative DRISCOLL of Calais. (Cosponsor: Senator VOSE of Washington)

On motion of Representative Driscoll of Calais, was removed from the Special Sentiment Calendar.

On motion of the same Representative, tabled pending passage and later today assigned.

BAILEY of Farmington
DRISCOLL of Calais
HUSSEY of Milo
PLOURDE of Biddeford
O'GARA of Westbrook

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-52) on same Bill.

Signed:

Senators: BRANNIGAN of Cumberland
PARADIS of Arostook
GOULD of Waldo

Representatives: BAILEY of Township 27
MELENDY of Rockland
MARTIN of Van Buren

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Amend the Credit Reporting Laws" (H.P. 131) (L.D. 172)

Signed:

Senators: MARDEN of Kennebec
CIANCHETTE of Somerset
BUSTIN of Kennebec

Representatives: VIGUE of Winslow
HUGLUND of Portland
CLEMENT of Clinton
CAMERON of Rumford
ST. ONGE of Greene
WINN of Glenburn
THOMPSON of Lincoln
REED of Dexter

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Signed:

Representative: HILLOCK of Gorham

Reports were read.

On motion of Representative Heglund of Portland, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-51) on Bill "An Act Regarding Motorized Wheelchairs" (H.P. 202) (L.D. 264)

Signed:

Representatives: STROUT of Corinth
RICKER of Lewiston

Reports were read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would just like to take a minute to briefly read the Statement of Fact on the original bill as it was presented to us in public hearing.

This bill repeals the Special Registration Permit for Operation of Motorized Invalid Chairs owned and operated by an invalid person. It also repeals the Secretary of State's authority to restrict the location and time of day for the operation of a motorized invalid chair.

In the initial stages, there was a lot of discussion and we all agreed (and the Department even supported the initial bill) that in fact a permit was unnecessary and that in fact we didn't believe that the Secretary of State ought to be able to restrict the time and place of the use of the wheelchair. We even went one step further to define the term "pedestrian" to include someone using a wheelchair because we agreed with the testimony, some very excellent testimony as a matter of fact, of people who were and are in wheelchairs and that the wheels of their wheelchairs are their legs. So we agreed to define even further the term "pedestrian." The difference between the two that you have and will hear about I am sure, the Minority Report, is that in the Majority Report we believe that if the people who are in a wheelchair are going to be on the public way at night, then they should have at least a minimum of the reflector strips on the wheelchair.

We talked about a variety of other things such as lights and flags and we are not asking any of those things. That is up to the individual using the wheelchair. We are saying that if the wheelchair is going to be on a public way at night, then the least they should have is a reflector strip on the wheelchair.

I must tell you that I (and some of you will probably even notice it in my voice) am just a little emotional over this, a little stunned by the reaction that you were faced with when you came in today because, to use a word on a bill that I am on, that I am discriminating against anyone, is very personal to me. I am sure it would be very personal to a lot of you in this room. I will give you an example and I

hope that you will listen to this example.

I was privileged to have in my lifetime five wonderful brothers, the oldest of which is in a wheelchair. He has had muscular dystrophy since he was just a young boy. Since he has grown up, he finally did have to become confined to a wheelchair. I discussed this bill with him because, in my judgment, there is no one else more qualified or more respected by this Representative than my brother John. I asked him how he felt about it. I would tell you at first he is in a nursing home, St. Joseph's Nursing Home, on a very busy highway in Portland, Washington Avenue, and I am sure many of you have driven on that highway. He does take advantage of the fact that he has a motorized wheelchair and in fact does go out on Washington Avenue in the daytime and travels up and down Washington Avenue. He loves people and loves to be around. He does have the bus that they have there to take him into Portland which lets him off at Congress Street, another very, very busy road, and does travel up and down Congress Street, meets all kinds of people that he likes, has met, or has known or whatever, always in the daytime. He travels very many places. He is as active, I would submit, as anybody I know, now or in the past, in a wheelchair. He is alert and active, bright and intelligent, and outgoing. In his opinion, he would never ride his wheelchair at night on a public highway, never. He does not believe that they should be there but if you did, he would absolutely, positively, accept nothing less than the strips on this vehicle.

In my judgment, we went pretty far to extend and redefine the term "pedestrian." I must say, and I don't want to put any of my fellow committee members in a position of having to themselves, I am the Chair, so I will say it, — to say that this is discriminatory, to say that we treating them as different is unfair but in truth and in fact, people in a motorized wheelchair are different in that one respect. It hurts me to say that but it is a fact and it must be said. I would not put my fellow committee members in a position where they would have to say it, that's my job.

You and I walking this day or any day, even in the best of weather conditions in the middle of the day, can move out of the way of a vehicle coming at us in many different ways, over something, around something, through something, much faster and much quicker than anybody. I would say that my brother is as quick on the draw in his motorized wheelchair and, if you want to find out, just go try to visit him and find out where he is because he is everywhere, I would say that he is just as fast as anybody, but it is impossible to not recognize that there is a difference.

I know that this is going to be very difficult for many of you. It is an emotional situation but I ask you to consider yourself as you are driving on a street in any of the busy cities that we have — I want you to put out of your mind if any of you are thinking of your little rural towns where the traffic is not very heavy and you think you can go along with this bill, I don't want you to talk about that, I want you to think about some of the busy highways and byways that we have in this state and understand what we are asking you to consider here, at night on a highway — just a reflector strip.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: If you take extra time to consider L.D. 264, then I assume you will show good judgment and join me in voting against this motion so that we can support the Minority Report on this bill.

A person who uses a wheelchair when going for a walk or conducting business or engaging in any other activity in the community as a pedestrian is a pedestrian, just like everyone else.

People using motorized wheelchairs have the same rights and responsibilities as all pedestrians, among them is the responsibility of good judgment; in other words, getting out of the way when you have to. The only difference is that the mobility aid is their legs. To a person who uses a wheelchair, the wheelchair is a part of their person. The Federal Americans with Disabilities Act is a comprehensive prohibition of discrimination based on disabilities. If we pass the Majority version, our state would be committing a discriminatory act by requiring pedestrians who use wheelchairs to use reflectors but not other pedestrians.

There is currently a lawsuit against the state because of the original requirement for restrictive permits for motorized wheelchairs which this bill proposes to address. Those reports seek to eliminate that discriminatory situation, yet the Majority Report would create another discriminatory situation by forcing reflectors on wheelchairs but not on pedestrians.

Let us support the Minority Report. If you listen to people with disabilities, they tell us how they are careful, they use good judgment, they take precautions in dangerous situations and I think you will find that they themselves will probably go ahead and put reflectors on but it cannot be written into the law. We cannot be writing our laws to be discriminatory against these people.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Township 27, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to oppose the Majority Report on L.D. 264. As a cosponsor of the original bill, I recognized that the people confined to wheelchairs were being unfairly treated and I feel that the Majority Report also treats this category of people unfairly. It does, however, put them into the pedestrian category, which I agree with, but I feel that Representative O'Gara's brother has said it all, he wouldn't be out there unless he had reflective material on.

I think what they are asking for is just treatment, to be treated the same as other pedestrians and allowed to make those decisions for themselves. Talking about safety — all the joggers at night should be wearing reflective material but that decision is left up to them to make. I feel that the people confined to wheelchairs should be given that same flexibility.

I urge you to vote no on the Majority Report and support the Minority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I hope today that you listened to what the Chairman of the Committee has told you. I don't have any problem with motorized wheelchairs going out there in the evening and I am not discriminating against anyone. I do have to tell you

that after I voted on this L.D., I had the privilege of talking with three different individuals who have motorized wheelchairs and they called me on a Saturday afternoon and wanted to discuss this bill with me. Their concern was that we would eliminate the permit process and I assured them that in both reports we had done that. They also talked with me in regard to whether or not they are pedestrians or they are not the same as pedestrians. They believe that they should be treated as pedestrians but after communicating with them over a period of 15 minutes with each one that the least that they could do would be to put this reflective material on and they had no problem with that.

When I voted on this, I didn't vote specifically to protect the motorists that is going to be approaching these wheelchair operators, I voted to protect those individuals. They may come back to you and say, let us do it on our own, we don't need this. That's fine, but the other concern I had is, if I am a motorist out there and I come on to this wheelchair operator without any reflective material and I should hit one of those motorized wheelchairs, you know it really concerns me as to what could happen. I think all of you know what their chances are.

The other issue that comes back to me is, who is going to be the blame? I think you know who is going to be the blame. I think today that I heard the Chairman of the Committee give very good testimony on why we should at least have this reflectorized material and I would hope that you would support the Majority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, I would like to pose a question through the Chair, please.

What penalties will be imposed on these people if their strips are off or they don't have reflectors on them?

The SPEAKER PRO TEM: The Representative from Rome, Representative Tracy, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Partly probably because we did not believe there would be a storm of protest on this one, I don't believe we discussed — some of the other members of the committee may correct me on this — but I don't recall that we imposed any fine.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Van Buren, Representative Martin.

Representative MARTIN: Men and Women of the House: I would like to tell you the reason I signed on the Minority Report and I urge you to vote for the Minority Report.

We all agreed that their wheels are their legs and they are to be treated as pedestrians. We all agreed that there was no need to license them when there is probably a thousand of these wheelchairs in the State of Maine and there were 18 that were licensed. The reason for my going on this report is that the other report is mandating reflectors. I don't believe we need to mandate safety to all these people who go out at night with these motorized wheelchairs. I don't believe they need to be told that they have to protect themselves so I am against putting a law on the books that mandates something to

these people when I don't feel it is necessary because we are not mandating reflectors on anybody else that is walking along the roads — flashlights or whatever. I believe that they are all intelligent people who can take care of themselves and we should just leave them alone.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Men and Women of the House: I urge you to support the Majority Report. I don't want to belabor the point because my Chair did an excellent job of outlining why many of us support the position we are in. It is an of safety, a safety issue to protect, not only those who are utilizing the motorized wheelchair, but also motor vehicles. That is the issue, it is not discriminatory, it is simply a safety issue. I urge you to support the Majority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Farmington, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: I just would like to say a few words for the Majority Report. Frankly, I never thought we would get to a Divided Report but we are here. We have a responsibility, not only to the motorized wheelchair of the handicapped which we don't take lightly, we also have a responsibility to the motorist. All we are asking is that we have some type of reflective material like I have here in my hand. You can peel off the back and attach it forward and rear on the motorized wheelchair which will light up hundreds of yards down the road to give some type of indication that something is beside the road so that we can perhaps avert a tragedy which would be a double tragedy, not only for the person in the motorized wheelchair, but for the motorist that may strike that motorized wheelchair and who will have to live with that the rest of their life.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Men and Women of the House: I would like to commend the Transportation Committee in general for its response to this bill because I think the most important issues are, as people have said, the fact that the permit requirement is going to be repealed and that the legislature would be recognizing, if we pass either report, that people using wheelchairs are in fact pedestrians.

I would like to comment, and I don't believe the point has been made, that I think the reason that the committee got to that place was understanding that the distinction in the law between pedestrians and others is that pedestrians are predominantly users of the sidewalk and others are users of the roadway as their predominant means of getting around. I think it has been made clear for reasons stated by everybody today that people using wheelchairs are in fact people who intend to and are planning to use the sidewalks. So, this bill only arises in those situations when the sidewalks are impassable.

The concern I have is shared by people on both sides and that is safety. A few weeks ago, right after I think the committee acted on this, there was an article in the newspaper here that I was going to copy for everybody. I looked at it again today and I just thought I cannot put this in front of people, it is such a painful article, because it involves somebody who hit and killed a pedestrian who was

known to them, actually a member of their family. Of course, they did that without realizing who this person was, they couldn't see the person. The article, which I found so distressing to read — I am sure it was a very difficult situation, was very clear that the reason given for that accident was called pedestrian error. That was not a person in a wheelchair. Most, if not all, because there has been no evidence — I asked a member of the State Police myself and I believe the information has been handed out, nobody has been able to remember an instance of an accident involving someone in a wheelchair. There are, however, significant numbers of these terrible accidents every year involving pedestrians who are not in wheelchairs. It suggests to me that if there is a problem, it is a problem that affects all people who find themselves using the roadway when they can't use the sidewalk. I think that, although the intentions of the Committee were admirable, the fact is that when we see a problem and we know that the problem affects all people and in particular 348 pedestrians last year were involved in accidents when they were not on the sidewalk and those people were not using wheelchairs but instead of including that group in our solution, we only single out people who have never been reported to be involved in a problem. Whether it is intended or not, we have in fact treated those people unfairly and we have treated them differently.

I would like to conclude by referencing something that Representative Melendy said which I think is very important. I think it suggests that the most important feature of ourselves that we use when we are crossing a street or walking in a roadway or passing through an area is not our legs and if we are in a wheelchair, it is not our wheelchair, it is our judgment. The people of this state, 1,500 of them who are in wheelchairs, have not had any handicap with respect to their judgment. It appears to me that if we pass this law, we are suggesting something different. If there is a problem, we should be including all pedestrians which is why some of us are wearing these reflectors today to show support for the fact that, if there is a problem, we should all be a part of the solution.

I urge you to oppose the Majority Report so that we can adopt the Minority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Athens, Representative Rotondi.

Representative ROTONDI: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the pending motion so that we might go on to accept the Minority Report of this bill. I was the sponsor of this bill and I am pleased that the Transportation Committee agreed to repeal the current law requiring special permits for users of motorized wheelchairs and that they are defining users of those wheelchairs as pedestrians. But, like many speakers before me have already stated, pedestrians are not required to wear reflective strips or reflective material. Current law does not require motorized wheelchairs to have reflectors or reflective strips or fluorescent material now.

As I understand it, we are only going to require motorized wheelchairs to have these and not all wheelchairs. I believe that it is a matter of fairness and I believe that the Majority Report is discriminatory and I hope you will vote against the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the

Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: You can put 40 million reflectors on a wheelchair, you can put all the reflectors on the cane that I am supposed to be using right now, but until we crack down on the nut behind the wheel, it is not going to do a bit of good.

Coming to work this morning, I crossed the intersection right down here. I was two-thirds across the intersection, a vehicle was coming up, that person never made any attempt to slow down or nothing, kept on going to the left, to the left, to the left. If it had not been for a snowbank, she would have gone by me. They don't care when they get behind a wheel — get out of my way. I've got a vehicle, I pay taxes for it, it does not do a bit of good. You can saddle all these people.

I am against mandating this stuff. You are going to tell an unfortunate person who is stuck in a wheelchair, you have got to put all sorts of reflectors on it. What is next? What next will we have? I say, until such time as we crack down, as I said before, on the nut behind the steering wheel, you are going to have problems.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: You recall at the outset of my comments, I did read to you the Statement of Fact. I must point out the irony to you which some of you may have already observed if you recall the Statement of Fact that the bill originally only asked us to do two things, one was to repeal that permit and one was to take away the Secretary of State's right to decide when and where. We did that. I can't help but think how ironic it is that if we had stopped there, we wouldn't be in the situation we are right now. Instead, we listened to some heartfelt testimony about the definition of the word "pedestrian." As I think back on it now, I realize that by agreeing to that testimony that in truth and in fact the wheels are their legs and so, defining pedestrian differently than you and I would usually define pedestrian, we opened the door for this position that we are now in.

I would just stress to you because I know that when each of us gets ready to vote, we try to balance both sides. I just want to conclude by reminding you again that both amendments retain the provision of the original bill to repeal the permit. Both exclude motorized wheelchairs from the definition of motor vehicle and both amend the definition of pedestrian. The only difference, and it is a very thin line of difference, is the reflective strip.

I urge you to accept the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair will order a vote. The pending question before the House is the motion of Representative O'Gara of Westbrook that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative O'Gara of Westbrook requested a roll call vote.

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

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I hope you will stick by your vote. Apparently you are understanding what has happened in that committee. The Committee Reports are that the two things that we changed in the bill would have reduced and taken out the discriminatory aspect of what we were looking for. However, the Majority Report, by putting on the strips to wheelchairs and not asking the same of pedestrians, is what makes it discriminatory in the eyes of the law. I hope you will continue to vote no on this.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, is it permissible for the Chair to withdraw the request for the roll call since I have not heard the bell ring?

The SPEAKER PRO TEM: The Chair would remind the Representative from Westbrook, Representative O'Gara, that a roll call has been ordered and it is not a proper motion.

The pending question before the House is the motion of Representative O'Gara of Westbrook that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 13

YEA - Aikman, Bailey, R.; Barth, Campbell, Carr, Clukey, Constantine, Cross, Daggett, Dexter, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farren, Gamache, Greenlaw, Gwadosky, Heino, Hichborn, Hussey, Joseph, Kerr, Ketterer, Lindahl, Look, Lord, Marshall, Mitchell, J.; Murphy, Nash, O'Gara, Ott, Pendexter, Plourde, Quint, Reed, G.; Ricker, Robichaud, Rowe, Simoneau, Skoglund, Strout, Taylor, Thompson, True, Vigue, Walker, Young, Zirkilton.

NAY - Adams, Ahearne, Aliberti, Anderson, Bailey, H.; Beam, Bennett, Bowers, Brennan, Bruno, Cameron, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Coles, Cote, Donnelly, Farnsworth, Fitzpatrick, Foss, Gean, Gould, R. A.; Hale, Hatch, Heesch, Hoglund, Holt, Jalbert, Johnson, Joy, Kilkelly, Kneeland, Kontos, Kutasi, Larrivee, Lemont, Libby James, Lipman, MacBride, Marsh, Martin, H.; Melendy, Michael, Morrison, Nadeau, Nickerson, Paradis, P.; Poulin, Rand, Reed, W.; Rotondi, Ruhlin, Rydell, Saint Onge, Stevens, A.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Tufts, Wentworth, Winn.

ABSENT - Ault, Carleton, Cloutier, Coffman, Dore, Farnum, Gray, Hillock, Jacques, Lemke, Libby Jack, Michaud, Mitchell, E.; Norton, Oliver, Pendleton, Pfeiffer, Pineau, Pinette, Plowman, Pouliot, Richardson, Saxl, Simonds, Small, Spear, Stevens, K.; Tardy, Whitcomb, The Speaker.

Yes, 51; No, 70; Absent, 30; Paired, 0; Excused, 0.

51 having voted in the affirmative and 70 in the negative with 30 being absent, the Majority "Ought to Pass" Report was not accepted.

Subsequently, the Minority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "B" (H-52) was read and

adopted and the bill assigned for second reading Thursday, March 18, 1993.

CONSENT CALENDAR

First Day

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

(H.P. 363) (L.D. 466) Bill "An Act Allowing the Bureau of Labor Standards to Enter into Reciprocal Agreements in the Area of Employment Standards with Other States" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-58)

(H.P. 394) (L.D. 507) Bill "An Act Regarding the Selection of Arbitrators in Labor Disputes" Committee on Labor reporting "Ought to Pass"

(H.P. 346) (L.D. 449) Bill "An Act to Amend the Laws Regarding Motor Vehicle Air Conditioning" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-59)

(S.P. 144) (L.D. 435) Bill "An Act to Repeal the Release Review Advisory Committee" Committee on Human Resources reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, March 18, 1993, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 49) (L.D. 71) Bill "An Act to Establish the Boundary Between Enfield and Passadumkeag"

(S.P. 132) (L.D. 423) Bill "An Act to Establish a Part of the Boundary Between Enfield and Lowell"

(S.P. 136) (L.D. 427) Bill "An Act to Allow Young People to Accompany Their Parents When Voting"

(S.P. 94) (L.D. 248) Bill "An Act to Clarify the Procedures by Which Fees Are Collected under the Petroleum Market Share Act" (EMERGENCY) (C. "A" S-41)

(S.P. 40) (L.D. 52) Resolve, to Require the Department of Education to Develop Education Guidelines for Public Schools (C. "A" S-42)

(H.P. 26) (L.D. 29) Bill "An Act to Permit Retired Teachers to Rejoin the Teachers Health Insurance Plan after Serving in the Legislature" (C. "A" H-49)

(H.P. 198) (L.D. 260) Bill "An Act to Require the Use of Standardized Evidence Kits for Cases of Gross Sexual Assault" (C. "A" H-50)

(H.P. 418) (L.D. 537) Resolve, Requiring All State Departments and Agencies to Analyze Unfunded Mandates (EMERGENCY) (C. "A" H-55)

(H.P. 294) (L.D. 382) Bill "An Act to Make the Minimum Age for a Muzzle-loading License the Same as the Minimum Age for a Hunting License" (C. "A" H-57)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Facilitate the Payment and Collection of Safety Education and Training Fund Assessments" (H.P. 369) (L.D. 472) (C. "A" H-53)

Bill "An Act to Coordinate Public Sector Occupational Health and Safety Regulations" (H.P. 362) (L.D. 465) (C. "A" H-54)

Resolve, To Authorize the Director of the Bureau of General Services to Transfer in the Name of the State a Certain State Built Water Pipeline in the Town of Boothbay Harbor (H.P. 308) (L.D. 396) (C. "A" H-56)

Bill "An Act to Abolish the Board of Licensure of Railroad Personnel" (S.P. 98) (L.D. 251) (C. "A" S-40)

Bill "An Act to Require the State to Pay for Mediation Sessions" (S.P. 107) (L.D. 310) (C. "A" S-39)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Clarify the Enforcement Authority of the Maine Sardine Council (S.P. 20) (L.D. 10) (C. "A" S-31)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Clarify Insurance Eligibility (S.P. 29) (L.D. 25) (C. "A" S-29)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Retain the Current Standard for the Release of Tributyltin in Marine Antifouling Paints (H.P. 7) (L.D. 14) (C. "A" H-32)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Concerning Employees of the Maine Technical College System (H.P. 78) (L.D. 108) (C. "A" H-29)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

PASSED TO BE ENACTED

An Act to Amend the Law Pertaining to Abandoned Vehicles (H.P. 320) (L.D. 408)

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

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first Tabled and Today assigned matter:

Bill "An Act to Improve Access of Injured Workers to Medical Care" (H.P. 644) (L.D. 875) (Committee on **Banking and Insurance** suggested)
TABLED - March 15, 1993 by Representative RUHLIN of Brewer.
PENDING - Motion of Representative ERWIN of Rumford to refer to Committee on **Banking and Insurance**.

On motion of Representative Ruhlin of Brewer, retabled pending the motion of Representative Erwin of Rumford that L.D. 875 be referred to the Committee on **Banking and Insurance** and later today assigned.

On motion of Representative Donnelly of Presque Isle, having voted on the prevailing side, the House reconsidered its action whereby the Majority "Ought Not to Pass" Report was accepted on Bill "An Act to Amend the Credit Reporting Laws" (H.P. 131) (L.D. 172).

On further motion of the same Representative, tabled pending the motion that the House accept the Majority "Ought Not to Pass" Report on L.D. 172 and specially assigned for Thursday, March 18, 1993.

The Chair laid before the House the following matter: Recognizing: the Calais Lady Blue Devils Basketball Team, winners of the State Class C Basketball Championship; (HLS 167) which was tabled earlier in the day and later today assigned pending passage.

Was read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Calais, Representative Driscoll.

Representative DRISCOLL: Mr. Speaker, Ladies and Gentlemen of the House: It gives me great pleasure on my maiden voyage in this Chamber to recognize and praise Coach Bob McShane and the Calais Lady Blue Devils for their tremendous accomplishments and victories. It is a special honor for me as most of this group of young ladies are former students of mine in the Calais school system. Not only have the Lady Blue Devils completed a perfect 22 and 0 season and bringing the first ever gold ball to Calais High School, but they are also outstanding academic students. The team is a credit to their families, community and school and an inspiration to their fellow students.

Subsequently HLS 167 was passed and sent up for concurrence.

At this point, Speaker Martin resumed the Chair.

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Resolve, to Obtain Land for the Construction of a Juvenile Detention Center in Northern Maine (EMERGENCY) (S.P. 301) (L.D. 917); came from the Senate, referred to the Committee on **State and Local Government**, which was tabled earlier in the day and later today assigned pending reference in concurrence.

On motion of Representative Joseph of Waterville, was referred to the Committee on **State and Local Government** in concurrence.

The Chair laid before the House the following matter: Bill "An Act to Amend the Workers' Compensation Laws for Workers in Certain Marine Resources Industries" (S.P. 290) (L.D. 860); came from the Senate, referred to the Committee on **Banking and Insurance**, which was tabled earlier in the day and later today assigned pending reference in concurrence.

On motion of Representative Mitchell of Freeport, retabled pending reference in concurrence and specially assigned for Thursday, March 18, 1993.

The Chair laid before the House the following matter: Bill "An Act to Improve Access of Injured Workers to Medical Care" (H.P. 644) (L.D. 875) (Committee on **Banking and Insurance** suggested) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Ruhlin of Brewer, retabled pending the motion of Representative Erwin of Rumford that L.D. 875 be referred to the Committee on **Banking and Insurance** and specially assigned for Thursday, March 18, 1993.

(Off Record Remarks)

On motion of Representative Carroll of Gray,
Adjourned at 11:29 a.m. until Thursday, March 18, 1993, at ten o'clock in the morning.