

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Tenth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**FIRST REGULAR SESSION**

**December 3, 1980 to May 1, 1981**

KJ PRINTING  
AUGUSTA, MAINE

**HOUSE**

Thursday, March 5, 1981

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

Prayer by the Reverend Vera Miles of the Freeport Church of God.

The journal of yesterday was read and approved.

**Papers from the Senate**

Bill "An Act to Allow Maine State Retirement System Members a Cost-of-living Increase" (S. P. 368) (L. D. 1087)

Came from the Senate referred to the Committee on Aging, Retirement and Veterans and ordered printed.

In the House, referred to the Committee on Aging, Retirement and Veterans in concurrence.

Bill "An Act Requiring that Stuffed Furniture Sold in Maine be Fire Retardant" (S. P. 365) (L. D. 1084)

Bill "An Act to Bring Noncarbonated Beverages such as Fruit Punch and Iced Tea into Compliance with Maine's Beverage Container Law" (S. P. 367) (L. D. 1086)

Came from the Senate referred to the Committee on Business Legislation and ordered printed.

In the House, referred to the Committee on Business Legislation in concurrence.

Bill "An Act to Ensure a Free and Appropriate Education for All Handicapped Children" (S. P. 361) (L. D. 1083)

Came from the Senate referred to the Committee on Education and ordered printed.

In the House, referred to the Committee on Education in concurrence.

Bill "An Act to Permit the City of Bangor to Increase the Number of Members on the Bangor School Committee" (S. P. 366) (L. D. 1085)

Came from the Senate referred to the Committee on Local and County Government and ordered printed.

In the House, referred to the Committee on Local and County Government in concurrence.

Bill "An Act to Deregulate the Bag Limit and Size Requirements of Striped Bass" (S. P. 369) (L. D. 1088)

Came from the Senate referred to the Committee on Marine Resources and ordered printed.

In the House, referred to the Committee on Marine Resources in concurrence.

**Reports of Committees  
Leave to Withdraw**

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Clarifying the Laws Relating to the Registration and Protection of Trademarks" (S. P. 213) (L. D. 578)

Came from the Senate with the Report Read and Accepted.

In the House, the Report was read and accepted in concurrence.

**Non-Concurrent Matter**

Bill "An Act Concerning the Organization of Certain Unincorporated Townships" (H. P. 882) (L. D. 1051) which was referred to the Committee on Local and County Government in the House on February 26, 1981.

Came from the Senate Indefinitely Postponed in non-concurrence.

In the House: The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Exempt State Mandated Revolving Fund Accounts at the Maine State Museum from the State Cost Allocation Pro-

gram" (H. P. 867) (L. D. 1036) which was referred to the Committee on Audit and Program Review in the House on February 26, 1981.

Came from the Senate referred to the Committee on Appropriations and Financial Affairs in non-concurrence.

In the House: The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Increase the Eating, Lodging and Recreational Place Licensing Fee" (H. P. 63) (L. D. 97) on which the Majority "Ought to Pass" Report of the Committee on Health and Institutional Services was read and accepted and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-65) in the House on March 2, 1981.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Health and Institutional Services read and accepted in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, I move that we adhere.

The SPEAKER: The Chair recognizes the gentleman from East Machias, Mr. Randall.

Mr. RANDALL: Mr. Speaker, I move that we recede and concur and would request a roll call.

The SPEAKER: The gentleman from East Machias, Mr. Randall, moves that the house recede and concur.

The gentleman may proceed.

Mr. RANDALL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to bring to your attention today this item, 110, An Act to Increase the Eating, Lodging and Recreational Place Licensing Fees, and I would like to point out, in some of the testimony which we have heard before our committee, we received information that for fiscal year 1981 there would be an ending balance of \$25,876 in this dedicated revenue account; for fiscal year 1982 there would be an ending balance of \$4,379 in this dedicated revenue account, pending conditions remain the same.

Also, I would like to point out that when this department turned over between 750 and 800 licensed establishments, it gained between \$13,000 and \$15,000 in additional revenues.

It appears today that in the coming year in the City of Bangor, this department will have to take over the inspecting of certain establishments, which will tend to give this department additional revenue as well as additional responsibility.

I would submit to you people today that this department does not need additional funding at this time.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to vote against the motion to recede and concur so that we could make a motion to adhere and to stick with the original position that this House took.

The House agreed that we needed a fee increase so that we could have six sanitarians to inspect 8,700 eating and lodging establishments. If you vote to recede and concur, you will leave the department with five sanitarians to do the job, and that is sufficient.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the

gentleman from East Machias, Mr. Randall, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

**ROLL CALL**

YEA — Alopis, Armstrong, Austin, Bell, Bordeaux, Boyce, Brown, D.; Brown, K. L.; Cahill, Callahan, Carter, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dillenback, Drinkwater, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L. M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Martin, A.; Masterman, Masterton, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Peterson, Randall, Reeves, J.; Salsbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Strout, Studley, Tarbell, Treadwell, Walker, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brennerman, Brodeur, Brown, A.; Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Fowlie, Gwadosky, Hall, Hayden, Hickey, Hobbins, Huber, Jacques, Jalberty, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H. C.; Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Smith, C. B.; Soulas, Soule, Swazey, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, The Speaker.

ABSENT — Berube, Carrier, Dexter, Dudley, Higgins, Perkins Rolde.

Yes, 63; No, 81; Absent, 7.

The SPEAKER: Sixty-three having voted in the affirmative and eighty-one in the negative, with seven being absent, the motion does not prevail.

Thereupon, on motion of Mrs. Prescott of Hampden, the House voted to adhere.

Recalled from Governor's Desk pursuant to Joint Order S. P. 364.

**Non-Concurrent Matter**

Bill "An Act to Repeal Provisions for Premiums and Rebates under the Liquor Laws" (H. P. 234) (L. D. 249)

In Senate, Passed to be Enacted on February 23, 1981.

In House, Passed to be Enacted on February 20, 1981.

Recalled from the Governor's Desk pursuant to Joint Order (S. P. 364)

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

In the House: The House voted to recede and concur.

**Messages and Documents**

The following Communication:

State of Maine  
House of Representatives  
Speaker's Office  
Augusta, Maine

March 4, 1981

Hon. Edwin H. Pert  
Clerk of the House  
House of Representatives  
State House  
Augusta, Maine 04333  
Dear Clerk Pert:

This is to notify you that pursuant to Title 34 MRSA, Sect. 2631, I am appointing Rep. John Lisnik to serve on the Maine Committee on Problems of the Mentally Retarded for 1981-1983.

Sincerely,  
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 recommendation of the Committee on Reference of Bills, were referred to the following Committees:

#### Aging, Retirement and Veterans

Bill "An Act Relating to Retirement for Justices and Judges" (H. P. 942) (Presented by Representative Kelleher of Bangor) (Cosponsors: Representatives Lund of Augusta, Murphy of Kennebunk and Nelson of Portland) (Ordered Printed)  
Sent up for concurrence.

#### Appropriations and Financial Affairs

Bill "An Act to Appropriate Funds, on a Local Matching Basis, for an Instrument Landing System at the Sanford Municipal Airport" (H. P. 943) (Presented by Representative Tuttle of Sanford) (Cosponsors: Representatives Paul of Sanford and Ridley of Shapleigh and Senator Wood of York)

Bill "An Act to Establish a Maine Guarantee Authority Reserve Fund" (Emergency) (H. P. 944) (Presented by Representative Martin of Eagle Lake) (Cosponsors: Representative Higgins of Scarborough and Senators Conley of Cumberland and Collins of Knox) (Governor's Bill)

Bill "An Act to Authorize a Bond Issue in the Amount of \$4,800,000 for Energy Conservation Improvements for State-owned Buildings, Completion of State of Maine Park Facilities and Improvements to Airports in the State of Maine" (H. P. 945) (Presented by Representative Huber of Falmouth) (Cosponsors: Representative Beaulieu of Portland and Senators Dutremble of York and Trotzky of Penobscot) (Governor's Bill)

(Ordered Printed)  
Sent up for concurrence.

#### Energy and Natural Resources

Bill "An Act to Amend an Existing Law Pertaining to Conversion of Seasonal Residences in Shoreland Areas" (H. P. 946) (Presented by Representative Masterton of Cape Elizabeth) (Cosponsor: Representative Benoit of South Portland) (Submitted by the Department of Human Services pursuant to Joint Rule 24)

(Ordered Printed)  
Sent up for concurrence.

#### Appropriations and Financial Affairs

Bill "An Act to Eliminate the Disincentive for Aid to Families with Dependent Children Recipients to Find Employment" (H. P. 947) (Presented by Representative Beaulieu of Portland) (Cosponsors: Senator Najarian of Cumberland and Representative Murphy of Kennebunk)

Committee on Health and Institutional Services was suggested.

On motion of Mrs. Prescott of Hampden, referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

#### Judiciary

Bill "An Act to Enhance Public Safety through the Authorization of Suspension of Licenses" (H. P. 948) (Presented by Representative Nelson of Portland)

Bill "An Act Relating to Attorney's Fees and Costs in Certain Lawsuits Arising out of Consumer Transactions" (H. P. 949) (Presented by Representative Locke of Sebec) (Cosponsor: Representative Hayden of Durham)

(Ordered Printed)  
Sent up for concurrence.

#### Labor

Bill "An Act Relating to the Clarification, Consistency and Improved Administration of the Employment Security Law" (H. P. 950) (Presented by Representative Beaulieu of Portland) (Submitted by the Department of

Manpower Affairs pursuant to Joint Rule 24) (Ordered Printed)  
Sent up for concurrence.

#### Public Utilities

Bill "An Act to Amend the Charter of the Kennebunk Light and Power District" (H. P. 951) (Presented by Representative Murphy of Kennebunk)

(Ordered Printed)  
Sent up for concurrence.

#### State Government

Bill "An Act to Provide for an Increase in Legislator's Salaries" (H. P. 952) (Presented by Representative Tuttle of Sanford) (Cosponsors: Representatives Davies of Orono and Dexter of Kingfield and Senator Clark of Cumberland)

Bill "An Act to Give Leaseholders Option to Purchase Lands Acquired by the State in Exchange with Paper Companies" (H. P. 953) (Presented by Representative Dexter of Kingfield)

(Ordered Printed)  
Sent up for concurrence.

#### Taxation

Bill "An Act to Permit the Taxation of Certain Athletic Property owned by Tax Exempt Organizations" (H. P. 954) (Presented by Representative Lewis of Auburn)

Bill "An Act to Enable Diesel Fuel Dealers to Pay Fuel Taxes at the Source of Supply" (H. P. 955) (Presented by Representative Dudley of Enfield) (Cosponsor: Representative MacEachern of Lincoln)

(Ordered Printed)  
Sent up for concurrence.

#### Transportation

Bill "An Act to Require the Licensing of Escort Vehicles" (H. P. 956) (Presented by Representative Pouliot of Lewiston) (Cosponsors: Representatives Gwadosky of Fairfield and Reeves of Pittston) (Submitted by the Department of Public Safety pursuant to Joint Rule 24)

Bill "An Act Concerning the Use of Blue Lights by Police Officers" (H. P. 957) (Presented by Representative Conary of Oakland)

(Ordered Printed)  
Sent up for concurrence.

#### Special Sentiment Calendar

In accordance with House Rule 56, the following item (Expression of Legislative Sentiment)

In Memory Of:

Raymond J. Curran of Bangor, Member of the House of Representatives, 102nd through 107th Legislatures; (H. P. 958) by Representative Kelleher of Bangor. (Cosponsors: Representatives Diamond of Bangor, Cox of Brewer and Soulas of Bangor)

Hearing no objections, the above item was considered adopted and sent up for concurrence.

#### House Reports of Committees

##### Leave to Withdraw

Representative Peterson from the Committee on Fisheries and Wildlife on Bill "An Act to Require the Use of Hunter Orange Clothing While Hunting" (H. P. 375) (L. D. 413) reporting "Leave to Withdraw"

Representative MacEachern from the Committee on Fisheries and Wildlife on Bill "An Act to Permit Hunting of Wild Game upon Certain Lands on Sunday" (H. P. 374) (L. D. 412) reporting "Leave go Withdraw"

Representative MacEachern from the Committee on Fisheries and Wildlife on Bill "An Act to Permit Deer Hunting with Muzzle-loading Rifles" (H. P. 231) (L. D. 268) reporting "Leave to Withdraw"

Representative MacEachern from the Committee on Fisheries and Wildlife on Bill "An

Act to Permit Deer Hunting with Muzzle-loading Rifles" (H. P. 105) (L. D. 156) reporting "Leave to Withdraw"

Representative Manning from the Committee on Health and Institutional Services on Bill "An Act to Provide for the Development of Mental Health Services" (H. P. 661) (L. D. 765) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

#### Consent Calendar

##### First Day

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

(H. P. 452) (L. D. 499) Bill "An Act Establishing a National Guard Scholarship Program in Vocational-technical Institutes" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-71)

No objections being noted, the above item was ordered to appear on the Consent Calendar of March 6, under 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:

(H. P. 525) (L. D. 591) Bill "An Act to Abolish the Panel of Physicians under the Workers' Compensation Act"

(H. P. 325) (L. D. 353) Bill "An Act Relating to Boilers and Pressure Vessels and their Operation" (C. "A" H-68)

(H. P. 403) (L. D. 446) Bill "An Act to Include Industrial and Medical Gas Installations as Personal Property Employed in Trade under Exceptions for Purposes of Personal Property Taxes"

(H. P. 533) (L. D. 599) Bill "An Act Relating to the Excise Tax Transfer Fee and Excise Tax Maximum"

(H. P. 328) (L. D. 355) Bill "An Act to Limit Scallop Dragging"

(H. P. 329) (L. D. 356) Bill "An Act Relating to the Size of Scallop Drags in Certain Coastal Waters"

(H. P. 370) (L. D. 408) Bill "An Act to Provide for the Reciprocity with other States under the Cosmetology Statutes"

(H. P. 297) (L. D. 327) Bill "An Act to Amend Current Law to Limit Additional Fees Charges to Handicapped Persons for Special Motor Vehicle License Plates that Display Handicapped Symbols" (C. "A" H-69)

(H. P. 32) (L. D. 37) Bill "An Act to Modify Certain Rules of the Road to Conform with the Uniform Vehicle Code" (C. "A" H-70)

(H. P. 557) (L. D. 632) Bill "An Act Concerning Interstate Estates"

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

#### Passed to Be Enacted Emergency Measure

An Act to Require School Districts to Account for Federally Subsidized Pupils as Residents of the District (H. P. 100) (L. D. 130) (C. "A" H-52 and S. "A" S-28)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 135 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure Later Today Assigned

An Act Relating to the Acquisition of Land and Building for Development of Fish Piers (H. P. 624) (L. D. 707)

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

The SPEAKER: The Chair recognizes the gentleman from Mars Hill, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: Could someone please give me a brief explanation of what the changes in the current law are?

The SPEAKER: The gentleman from Mars Hill, Mr. Smith, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, I really can't go line-by-line as to exactly what changes in current law it will make, but the bill is primarily to assist the Department of Transportation to be able to start the process of acquiring the land sites where the fish pier programs are going to be made. The problem that was cited was whether or not there would be any distressing of the water rights where some of the fish piers will be going into the low water areas along the shores where the fish site projects will be built.

Mr. CARROLL: I think, probably can go into the semantics. It is not a major change, but it is vitally important so that some of these programs can be — the bids are in for the projects and they want to start developing and build early in the spring.

The SPEAKER: The Chair recognizes the gentleman from Mars Hill, Mr. Smith.

Mr. SMITH: Mr. Speaker, I have the bill and I notice it changes from land to real property and the crosses out Section 154, but the problem I have is "acquisition of real property" and crossing out "land" and inserting "real property." Then they have crossed out "directly." I would just like to have a clearer explanation if I could.

The SPEAKER: The gentleman from Mars Hill, Mr. Smith, has posed an additional question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Does that bill contain eminent domain, taking land? I want to answer before I vote.

The SPEAKER: The gentlewoman from Brunswick, Mrs. Martin, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Statement of Fact on this legislation, it says, "This bill removes any ambiguity that may exist in current law to ensure that the Department of Transportation has the legal authority to acquire any interest in real estate, including estates less than fee simple, easements and fixtures necessary for the construction of fish piers. This will facilitate acquisition of property necessary without expensive and unnecessary litigation."

I feel the Statement of Fact is self-explanatory. I feel it is extremely urgent that we get this legislation on the move, that we have waited too long in the development of fish piers and shore property in the State of Maine. Outside interests come in here with their money and have grabbed off a lot of our property which is necessary for our state to grow and develop jobs for the citizens of the State of Maine. I feel we are in danger right now of losing the EDA money, and I would urge you all to hurry and vote and let's get this on its way.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I didn't get an answer to my question, so I can't vote for this bill. I know what eminent domain is and I am not for it.

Thereupon, on motion of Mrs. Mitchell of

Vassalboro, tabled pending passage to be enacted and later today assigned.

#### Orders of the Day

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

House Divided Report — Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" as Amended by Committee Amendment "A" (H-67) — Committee on Transportation on Bill, "An Act to Prescribe when a Caboose shall be Attached to a Locomotive and Freight Cars" (H. P. 338) (L. D. 377)

Tabled — March 4 by Representative Carroll of Limerick.

Pending — Acceptance of either Report.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, under the Conflict of Interest Rule 10, may I be excused on this measure?

The SPEAKER: The Chair will excuse the gentleman from Lewiston, Mr. Jalbert, from participation or voting on this issue.

The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to move we accept the Minority "Ought to Pass" Report and would speak to my motion.

The SPEAKER: The gentleman from Limerick, Mr. Carroll, moves that the Minority "Ought to Pass" Report be accepted.

The gentleman may proceed.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: This is a very simple piece of legislation. I consider it so simple that I am amazed we got a divided report, because what this legislation is actually doing, it is assuring safety on the railroads.

We all agree that they will have the excuse that they have financial trouble and that they have serious problems in regards to their finances. But I cannot agree with this concept because I feel that public safety and the safety of people using these roads is of extreme importance.

I would urge you all to accept the Minority Report today.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. MCPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: I will urge you today to reject the Minority "Ought to Pass" Report and accept the Majority Report from the committee.

I guess you could call this the year of "Shoot the Moose and Save the Caboose." To me, it was brought out clearly in the hearing that this is a matter that should be decided between labor and management and really has no business before this body.

I would urge you to reject the motion that is before you and then accept the Majority Report of the Committee on Transportation.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Day.

Mr. DAY: Mr. Speaker and Members of the House: I rise to speak in opposition to this. If it is a safety matter, fifty percent of the time it is darkness, about 10 to 12 percent of the year it is rain, snow, fog, blowing snow and such things that we are really talking about a safety matter that is only going to apply during daylight hours. It does not seem necessary to put this through to cover just the minority of the working day.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Soulas.

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: Let me share with you the reasons why I am voting for this bill.

I didn't get to the hearing, but I did get a summary of exactly what this bill does. This bill was introduced as a result of the management policies of one railroad in our state, that is the B & M Railroad, which instituted the policies of requiring all the train crew to be as-

signed on the head end on the train, in other words, in the locomotive, thus providing no protection to the rear of the train to protect from following trains, watch for sticking brakes, hot journals, dragging equipment or other conditions that may result in a derailment. So what this bill provides, if passed, it will simply mandate that every train covered by this legislation will require that one of the crew be assigned to the caboose. It will not add one employee to this. So I feel for these reasons that we should vote for the Minority Report.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker and Members of the House: I am the sponsor of this bill, and I guess I would have to agree with Mr. Carroll and Mr. Soulas and essentially explain what this bill is trying to do.

I guess that due to the nature of industry in Maine, the railroads in the state carry a high percentage of hazardous, toxic and highly flammable chemicals and fuels. The purpose of this bill is to ensure to some degree the safety of the citizens who work or reside near railroads from being exposed to unnecessary risk by requiring a caboose be attached to the last car of most trains, and that a member of the crew shall be positioned in the caboose to observe the train from such things as sticking brakes, hot journals, dragging equipment or other conditions that may result in a derailment.

The bill addresses two central issues. The first is, no railroad corporation operating in the State that has more than 25 employees may use or permit to be used on a main track, for a distance in excess of one mile in one direction, a locomotive with freight cars unless a caboose is attached to the last car. At least one crew member must be positioned in the caboose while moving to observe conditions that can affect the safe operation of a train.

The second point it addresses—any person, firm or corporation violating this section would commit a violation, and forfeiture of not more than a fine of \$100 would have to be adjudged.

In closing, it has been said that if you protect a caboose your engine will take care of itself, and I guess in that spirit I would hope that you would adopt this legislation and support the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, when the bill came into committee, I kind of assumed, maybe I assumed, but I was told by various people—oh, it is not a very important bill. But as this thing began to build, I began to find out just what the importance of it was.

I know that the train that brought the lobbyists down here in this hall in the last two days happened to have a caboose, because they had to have 25 or 30 cars. For a bill that is so unimportant, I can't understand why you would have the hall filled like it has been for the last couple of days.

They say it is a safety point; yet, I can find nothing in the record that says that there has been a problem because there has or has not been a man in the caboose, but I have found evidence that there have been four people hurt riding in cabooses. So I would say if that is safety, it is kind of reverse safety as far as I am concerned. The Bangor Daily News came out with a little article, it wasn't all correct, Ohio and Virginia are the only two states that have some type of similar legislation on the books, and this bill has been in just about every state in the Union. New York and Massachusetts rejected it; Vermont was sitting on the bill waiting to see what we were going to do, and I think they will find out, I hope today. They say it is not a matter of negotiation; yet, I will tell you that every railroad in this state, except the Boston and Maine, reached a negotiated settlement. So don't tell me it is not nego-

tiable because it certainly is.

Another thing that bothers me, they say it is safety. I sent for copies of the federal rules on safety. First of all on these trains, and I think the best safety device they have is the communication systems, that is between the trains and dispatch, they have a varied amount of communications which they use.

The second thing is the federal regulation marking devices which are used on railroad trains that you can plainly see from a great distance because it is mandated by the federal government. They have a spacing between following trains, and this spacing is from the Standard Code of Operating Rules recommended by the Association of American Railroads, and most every railroad in the country has adopted that particular standard code.

Next, they have a flagging procedure which specifies that if a train is stopped on a track, a man has to go back not less than 5200 feet, that is almost a mile. No matter where this man is on the train, he may be at the head of it or in the middle of it, wherever, they have to go back 5200 feet. Now, with the spacing, the equipment which they use, which includes the flares, the torpedos, the whole nine yards of it, if a train comes up behind them and misses all that, then believe me, that caboose and that man in it wouldn't make a bit of difference.

I just can't see where this can be a safety item.

Now, let's go to another thing. Let's say we have a train going to Brownville Junction, and there are a few other junctions in the state the same way, here is the position you are putting these people in. Brownville Junction has about a five-mile spur that goes off into the junction. When they load the train, the cars that are going into Brownville Junction, of course, are loaded first, and then after that are the cars that are going to continue on up the line to other points. Now what you are saying is, in order for the train to legally let go of the cars that are going to leave on the spur and take the cars into Brownville Junction, they have got to have two cabooses, one at the end and one in the middle where they disengage the cars going to Brownville Junction. That doesn't even make good sense. And there are a few other junctions in the state that are the same way. So, if you pass a law and you cause this to happen — oh, another good point, if you do have an equipment failure or even a derailment in the middle of the train or somewhere along the train, in order for the cleanup crews to come along and take care of it, or the maintenance crew, they have got to let loose the cars that are derailed or the cars that had the mechanical problem, and they have to continue the train on up to where they can get the crews in, they would be illegal because the caboose is inaccessible, you can't get back around to get it, so you put them in that kind of position.

Let's say a railroad is going to have to buy a caboose — you are talking \$100,000. It seems to me, in a place where we are trying to promote mass transportation for goods or people or whatever, we are coming along and throwing these stumbling blocks at them and saying, hey, we want mass transportation but you are going to play under our rules, and we don't care, if you can't negotiate it under labor/management then maybe we can do it here on the floor of the House. Well, I can tell you, this is not the place for negotiations to take place, not that type of negotiation. I think that is why I am really opposed to this bill.

I would like to say this, and I would like to make it public — B & M, the Boston and Maine Railroad, is now putting a man in the caboose, and that was the only railroad left in the State that wasn't doing it, but they are doing it now. And I will tell you this, and if the presses hear it, I hope they print it, if Boston and Maine, as a result of this legislation being killed, if it is, if they take that man out of that caboose and cause an unsafe condition and jeopardize the

citizens of this state, I will work just as hard to get an emergency bill in to do the same thing as what this bill is purporting to do. So take heed, Boston and Maine, don't play games with us.

I would hope that you would accept the Majority Report, and in order to do that, for some of the freshmen who may be a little confused on this issue, just follow my light and I will show you how to do it.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, I have to thank Mr. McKean for the fine explanation of this bill. I wasn't planning on speaking on this twice.

I will agree with Mr. McKean that what has started out to be a housekeeping bill has turned into quite a controversial issue. I guess having read the most recent editorial on this issue in the Bangor Daily News, it appears that there will be quite a considerable amount of debate on this issue today. I thank the paper for doing such a fine job on the bill. They did such a good job that I felt duty-bound and responded to it by writing a letter to the editor of my own a few days later.

In response to some of the questions that pertain to the bill, it would appear that the general feeling of the opponents to L. D. 377 is that the matter of the use of caboose cars and if or when they should be manned is a subject of negotiation and not legislation. I feel this is a tactic often used by the carriers in an attempt to essentially confuse the issue. However, from the public hearing, it was indicated in testimony that placement of the train crew members should be left to the judgment of management. I think this statement is the very heart of the argument, not the size of the crew nor the fact whether or not a caboose should be attached to the rear of the train. Obviously, if the law mandated that a crew member shall be assigned to ride on the rear of a train to ensure a degree of safety to the citizens who work or reside near railroads from being unnecessarily exposed to the risks associated with derailments, then a caboose must be attached to the rear car for the person to ride in.

The statement that this bill was only introduced to achieve what they could not achieve in agreement is totally irrelevant, and I am sure was made to further confuse the issue. There is not even a hint in this bill which would mandate that a specific number of trainmen must be assigned to a train. In my testimony before the Transportation Committee, I had made the point very clear that were this bill to become law, not one additional trainman would be required on any train operating in the State of Maine, including the Boston and Maine Railroad.

This bill was not introduced to negate the arbitration award rendered on the Boston and Maine Railroad nor to prohibit negotiated settlements relative to train crew size on any other railroad operating in the state of Maine.

It is interesting to note, in responding to the question from a member to the committee relating to railroads are very stringently regulated in the area of safety, I would submit that I am in total agreement with the testimony on this point, but rest assured that the rail carriers have strongly opposed these regulations. Everyone, at the time of their enactment, continued to seek to have them watered down. I might add that these regulations are all implemented through state and federal law, not negotiated agreements. Safety is not a negotiable matter. Historically it never has been, regardless if it is the railroad industry or in any other industry.

In closing, I would respectfully urge that you examine closely the real issue this legislation attempts to provide. The only self-serving motive involved by its members and other rail employees and myself for sponsoring the bill are concerned with the greatest degree of safe railroad operation in Maine. We would hope

that you would support the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I am a little confused. I have a son that works on the railroad from the CP, and it goes up to a little beyond Jackman and that is as far as they can go, and I have been amazed at the many times that he has said that he rode in the caboose and the things that have been noticed. Then I heard him speaking about two cabooses. I listened to this gentleman over here, Mr. McKean, and sometimes he loses me because he goes on with figures and figures, but he mentioned two cabooses, I don't think a railroad ought to have two cabooses, one is enough, but I don't want to see them lose that one. If it isn't going to cost them anymore for help, like my son says it isn't, that is what I want.

I would like to pose a question through the Chair.

Would someone answer the question — is there any time when you are going to have to have that second one? I don't think you need it.

The SPEAKER: The gentleman from Sangerville, Mr. Hall, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: My good friend, Representative Hall, has brought up a question and I think I can answer that by posing the same question right back through to the sponsor or the committee members who possibly are for the bill. How do you move a train that has 25 cars on it and has had a mechanical failure behind it and they have to move those cars forward, how do you get the caboose around? You are not going to pick it up and carry it, so that means that you are going to have to have two of them. That is the position you put them in with this bill. That is why I think the good thing to do with the bill, in order not to create these problems, is to deep six it, then we don't have to worry about that kind of a problem.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: You have just heard the smokescreen of Brownville Junction, that is exactly what it is. You have just heard that we entering into contract negotiations, that the legislature is putting their foot in the door between labor and management. You know what, I could also ask you to get up and give me the honest salaries of everybody who works on railroads — we are talking about smokescreens, not legislation.

What disturbs me is that they get up here and quote the federal law and they tell you all the federal legislation that protects society against the railroads. My daughter-in-law's brother was killed at a railroad crossing in Wells two years ago in a snowstorm. There were no lights at the crossing, and when they questioned the engineer on that train, he said, "this locomotive, this hired unit is leased by the railroad from General Motors and they are responsible for its safety, but this locomotive is operating without brakes and was the day of the accident." When we say that the federal government has enough laws so the state doesn't have to do anything, you are living in a dream world, that is why we have state government. If big brother, the feds, did everything, we wouldn't be meeting here today. We do feel that this is important because it is safety.

Way back in the 40's I happened to be in North Carolina and I saw a double header hit from the rear by another train that wasn't supposed to be on the track, but there was another train on the track coming full speed ahead with the whistle wide open, but no man had run back up the track 5200 feet to put out a flag, and that

is exactly why I want this legislation. It is safety, it will save lives.

Now they are going to put the lights at the crossing in Wells because the father of this son sued and was ready to go to court. He said, "I don't want millions, I just want to be sure somebody else's daughter or son does not die at that railroad crossing." We don't want millions today, all we want is a caboose on the rear of the train, not two cabooses or three or four, as a smokescreen from Brownville Junction is telling you, we want one on the rear of the train so if they have any problems, he can run back 5200 feet without having to run 130 cars back from up in front of the train. That is just good, common, everyday sense. You have to have a man at the rear to run back up the tracks, put out the emergency flares, put out the emergency flags, because the radio can fail, electronics can fail, many things can fail. They speak about, well, what good is it going to do to have him there? He has legs and he can move, he can walk up the track that 5200 feet that the feds say you must do, and he can put out a visual signal. If you save one life, the legislation is worth it. How do you measure lives at this time?

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman from Limerick, Mr. Carroll, has tried to do a good job, but I think he is throwing up a smokescreen the other way.

The gentleman from Sanford, Mr. Tuttle, mentioned that this is not a labor and management problem. The bill as presented before us, in my opinion, came in because it was a labor and management problem; labor and management could not agree.

I would ask all of you to take out Committee Amendment "A" and under 2a, to me it very clearly says, "Cabosse required." Why did they put this amendment on? Why? Because it says that unless both labor and management representatives agree otherwise in a signed negotiated contract, unless they agree, and very simply what is says, if they can't agree a caboose will be required. They put this little amendment on because labor and management could not agree. Now they are asking us to reverse it and if labor and management cannot agree, a caboose will have to be required.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback. Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I know nothing about railroads, I know nothing about cabooses, so I feel I am probably as well qualified to speak on this as many who have spoken.

There is no question that this is a problem between management and labor. I understand they have negotiated the thing over and over, I understand it has been in the courts and now it is here in the House and we, with our great knowledge, are going to decide what management and labor should do, but that is not my concern.

In our warehouse, we bring care of produce, groceries and all other things. The yards in Portland are longer than a mile, they probably have to go three or four or five miles to get to our warehouse.

In the State Government Committee, we listened to all the poor people, the ladies who have to have part-time work, the unemployed, the elderly, and who is going to pay for the additional costs of adding cabooses or doing anything else that management should make the decision on? The very person that goes into the grocery store or buys any article is the person that eventually is going to pay for these items. If somebody has to buy another caboose or add more people, I understand that they aren't adding anybody, I don't think it is a matter of safety, as far as I am concerned it shouldn't even be in here, this bill, and I am going to vote against it.

The SPEAKER: The Chair recognizes the gentleman from Benton, Mr. Hunter.

Mr. HUNTER: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. McKean said he would like to make this easier for the Freshmen. Well, I will make it easier for everybody by moving indefinite postponement of the bill and all its accompanying papers and hope you will follow my light.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: I said I wasn't going to get up twice but I guess I am getting up three times now. I hope that you will vote against the motion to indefinitely postpone.

I think I have to repeat about the issue saying that this is something that is a negotiable issue. As I said before, this is an argument, I feel, to confuse the issue. There are arguments on most railroads that cover crew size. Most organizations have the ability to protect its members in this area. The purpose of the language in L. D. 377, which refers to signed negotiated contract, is there to provide for special agreements between, if you want to use the word union and management, should any railroad in Maine initiate piggyback or a container train service. These special trains are very limited in the length and make very few stops. They are high speed trains operated similar to passenger trains and are run to more effectively compete with the trucking industry. No such trains are presently operating in the state of Maine.

This is a bill to provide greater safety, and I would like to reemphasize that, to not only the rail employees but also to the citizens working and residing near railroad tracks from being exposed to greater risks of trains and derailments. This is something that is not negotiated, you don't negotiate safety. It has always been a subject of legislation and I think it always will be.

In view of extreme and tragic derailments in the United States and Canada, which cause hundreds and thousands of people to be evacuated from the towns and cities, I am sure that we have read many magazine articles that have been written, one of which was appropriately entitled, "Rolling Bombs that Ride Our Rails." Most probably legislators do not know, nor would many of the members of the public citizens in the state of Maine know, that the freight and tank cars traveling within the state today by train contain substances such as chlorine, ethel chloride, hydrogen chloride, liquid petroleum, gas, etc., which has the potential to blow up whole city blocks and have chemical fumes so deadly that they could spread for miles and blind, burn or kill anyone they touched or came in contact with them.

I guess the last thing, to set the record straight, this bill is a step in establishing cooperative programs. This month, after two years of diligent struggle, the effort has finally convinced the federal railroad administration and New England officials to join in the establishment of a New England Railroad Task Force. This task force will explore ways to improve railroading, to help railroads to be more profitable, and to improve transportation throughout the New England States. This has been a difficult endeavor because many of the railroads were hesitant to engage in any cooperative activities. I think this legislation is a step in that area, and because of this, I hope you will defeat the motion to indefinitely postpone and accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: The amendment which is on the bill, as far as I am concerned, is also discriminatory. You have got a railroad in this state that is not unionized, so where do they stand? You are legislating to them and they don't even have a chance at negotiation.

I must retract one thing that I said — please, you don't have to follow my light. My good friend Representative Hunter is on this side, you can follow his.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I have serious misgivings when I hear a gentleman get up and he speaks of the poor housewife and the people, that the legislature is passing legislation increasing the cost. I would like to point out to you that the legislator is the protector of the people against high costs, that we have consistently tried to pass legislation controlling the costs, the costs of energy, the cost of gas and oil, but we are powerless in certain areas to legislate. When I heard Representative Dillenback, the good gentleman from Cumberland, get up with his great concern for the housewife, my first thought was, what was the profit of the corporation that you represent, that you are affiliated with? What were your dividends? Did you pay 18, 20, 30, 40 percent this past year? The food industry, the corporations that are handling the food in America are not paying the farmer anything for his product, they are ripping us off, ladies and gentlemen, and when they go out here and sell it to you, Mr. and Mrs. Housewife, that is where their little act comes in. Don't you hide behind another smokescreen called "cheap food for the consumer," because they are not interested, they are interested in the buck.

I would ask for the yeas and nays when this vote is taken.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Benton, Mr. Hunter, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Armstrong, Austin, Bell, Bordeaux, Boyce, Brennerman, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carrier, Carter, Conary, Conners, Cunningham, Curtis, Damren, Davis, Day, Diamond, G. W.; Dillenback, Drinkwater, Foster, Fowlie, Gavett, Gillis, Gwadosky, Hanson, Hickey, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Ketover, Kiesman, Kilcoyne, Lancaster, Leighton, Lewis, Lisnik, Livesay, Lund, MacBride, Manning, Martin, A.; Martin, H. C.; Masterton, Matthews, McCollister, McGowan, McKean, McPherson, Michael, Mitchell, E. H.; Murphy, Nelson, A.; Norton, O'Rourke, Paradis, E.; Pearson, Perkins, Peterson, Post, Pouliot, Racine, Randall, Reeves, J.; Richard, Ridley, Roberts, Rolde, Salisbury, Sherburne, Small, Smith, C. W.; Soule, Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Theriault, Treadwell, Twitchell, Vose, Walker, Webster, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Brodeur, Carroll, Clark, Connolly, Cox, Crowley, Davies, Diamond, J. N.; Dudley, Erwin, Fitzgerald, Gowen, Hall, Hayden, Hobbs, Jacques, Joyce, Kane, Kany, Kelleher, LaPlante, Laverriere, Locke, MacEachern, Macomber, Mahany, Masterman, McHenry, McSweeney, Michaud, Mitchell, J.; Nadeau, Nelson, M.; Paradis, P.; Paul, Perry, Prescott, Reeves, P.; Smith, C. B.; Soulas, Thompson, Tuttle.

ABSENT — Berube, Chonko, Dexter, Higgins, Moholland.

EXCUSED — Jalbert.

Yes, 98; No, 46; Absent, 5; Excused, 1.

The SPEAKER: Ninety-eight having voted in the affirmative and forty-six in the negative, with five being absent, and one excused, the motion does prevail.

The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. McKEAN: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and hope you all vote against me.

The SPEAKER: The gentleman from Limestone, Mr. McKean, having voted on the prevailing side, now moves we reconsider our action whereby this Bill was indefinitely postponed. All those in favor will say yes; those opposed will say no.

A viva voce vote being taken, the motion to reconsider did not prevail.

Sent up for concurrence.

The Chair laid before the House the following matter:

An Act Relating to the Acquisition of Land and Building for Development of Fish Piers (H. P. 624) (L. D. 707) (Emergency) which was tabled earlier in the day pending passage to be enacted.

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and specially assigned for Monday, March 9.

(Off Record Remarks)

On motion of Mr. Matthews of Caribou,  
Adjourned until 12:30 tomorrow afternoon.