

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

HOUSE

Monday, May 2, 1983

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

Prayer by the Reverend Howell Lind of the Winthrop Street Universalist Church of Augusta.

The members stood at attention for the playing of the National Anthem by the Marshwood High School Band of Eliot.

The journal of the previous session was read and approved.

Papers from the Senate Reports of Committees

Ought to Pass in New Draft/New Title

Report of the Committee on Legal Affairs on Bill "An Act Concerning Games for Prizes" (S. P. 409) (L. D. 1257) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Transient Sellers who Offer Merchandise as Free of Charge" (S. P. 508) (L. D. 1522)

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

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

Non-Concurrent Matter

Bill "An Act to Create Boothbay Region Waterfowl Sanctuary" (H. P. 713) (L. D. 904) which was passed to be engrossed in the House on April 25, 1983.

Came from the Senate recommitted to the Committee on Fisheries and Wildlife in non-concurrence.

In the House: On motion of Mr. MacEachern of Lincoln, the House voted to recede and concur.

Messages and Documents

The following Communication: (S. P. 514)
111th Maine Legislature

April 28, 1983

Honorable Kenneth P. Hayes

Honorable Stephanie Locke

Chairs

Joint Standing Committee on Education

State House

Augusta, Maine 04333

Dear Chairs Hayes and Locke:

Please be advised that Governor Joseph E. Brennan today nominated Joseph D. Murphy of Biddeford for appointment to the State Board of Education.

Pursuant to Title 20 MRSA Section 51, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,

S/GERARD P. CONLEY

President of the Senate

S/JOHN L. MARTIN

Speaker of the House

Came from the Senate read and referred to the Committee on Education.

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

Petitions, Bills and Resolves Requiring Reference

The following Bill and Resolve were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Aging, Retirement and Veterans

RESOLVE, Concerning Retirement Allowances for Hester G. Brown and Ruth M. Hanna (H. P. 1162) (Presented by Representative Foster of Ellsworth) (Cosponsors: Senator Perkins of Hancock and Representative Salsbury of Bar Harbor) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act to Identify and to Promote Excellence in Schools" (Emergency) (H. P. 1163) (Presented by Representative Locke of Sebec) (Cosponsors: Representative Randall of East Machias and Senator Hayes of Penobscot) (Submitted by the Department of Educational and Cultural Services pursuant to Joint Rule 24)

(Ordered Printed)

Sent up for concurrence. (Later Reconsidered)

House Reports of Committees Unanimous Leave to Withdraw

Representative Brannigan from the Committee on Business Legislation on Bill "An Act to Adjust the Workers' Compensation Insurance Rates Charged Volunteer Ambulance Companies" (H. P. 888) (L. D. 1153) reporting "Leave to Withdraw"

Representative Brannigan from the Committee on Business Legislation on Bill "An Act Relating to Malpractice Insurance in the Field of Medicine" (Emergency) (H. P. 946) (L. D. 1227) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Ought to Pass in New Draft Later Today Assigned

Representative Kelleher from the Committee on Appropriations and Financial Affairs on Bill "An Act to Maximize the Availability of Certain Social Services by Providing for Income from Fees and Remove References to Federal Requirements which no Longer Exist" (H. P. 828) (L. D. 1066) reporting "Ought to Pass" in New Draft (H. P. 1161) (L. D. 1533)

Report was read.

On motion of Mrs. Mitchell of Vassalboro, tabled pending acceptance of the Committee Report and later today assigned.

Ought to Pass in New Draft/New Title

Representative Ridley from the Committee on Energy and Natural Resources on Bill "An Act to Strengthen the Shoreland Wetlands Alterations Law" (H. P. 575) (L. D. 723) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend Mandatory Zoning and Subdivision Control" (H. P. 1160) (L. D. 1531)

Report was read and accepted, the New Draft read once and assigned for second reading.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" on Bill "An Act to Require the Wearing of Protective Headgear by All Motorcycle, Motor Driven Cycle and Moped Riders" (H. P. 836) (L. D. 1072)

Report was signed by the following members:

Senators:

DANTON of York

DIAMOND of Cumberland

— of the Senate.

Representatives:

MACOMBER of South Portland

McPHERSON of Eliot

REEVES of Pittston

NADEAU of Lewiston

CARROLL of Limerick

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Reporting was signed by the following members:

Senator:

EMERSON of Penobscot

— of the Senate.

Representatives:

STROUT of Corinth

MOHOLLAND of Princeton

THERIAULT of Fort Kent

CALLAHAN of Mechanic Falls

CAHILL of Woolwich

— of the House.

Reports were read.

Mr. Carroll of Limerick moved that the Majority "Ought to Pass" Report be accepted.

Whereupon, Mr. Strout of Corinth requested a roll call vote.

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 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 pending question is on the motion of the gentleman from Limerick, Mr. Carroll, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Anderson, Andrews, Baker, Beaulieu, Bonney, Bost, Brannigan, Brodeur, Brown, K.L.; Carrier, Carroll, D.P.; Carroll, G.A.; Chonko, Cox, Daggett, Diamond, Drinkwater, Foster, Gwadosky, Handy, Hickey, Ingraham, Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, MacBride, Macomber, Manning, Martin, A.C.; Martin, H.C.; Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McPherson, McSweeney, Melendy, Mitchell, E. H.; Mitchell, J.; Murray, Nadeau, Perkins, Perry, Pines, Pouliot, Reeves, P.; Rolde, Stevenson, Thompson, Walker, Wentworth, Zirkilton.

NAY—Allen, Armstrong, Bell, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carter, Cashman, Clark, Conary, Conners, Cooper, Cote, Crouse, Crowley, Davis, Day, Dexter, Dillenback, Dudley, Erwin, Gauvreau, Greenlaw, Hall, Hayden, Higgins, L.M.; Hobbins, Holloway, Jackson, Kiesman, Lewis, Locke, MacEachern, Masterman, McCollister, McGowan, McHenry, McSweeney, Michael, Michaud, Moholland, Murphy, Nelson, Norton, Paradis, E.J.; Parent, Paul, Racine, Richard, Roberts, Roderick, Rondini, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Soule, Sproul, Stevens, Stover, Strout, Studley, Swazey, Tammara, Telow, Theriault, Vose, Webster, Weymouth, Willey.

ABSENT—Benoit, Connolly, Curtis, Higgins, H.C.; Jacques, Jalbert, Kane, Mahany, Paradis, P.E.; Randall, Reeves, J.W.; Ridley, Tuttle, The Speaker.

Yes, 60; No, 75; Absent, 14; Vacant, 2.

The SPEAKER: Sixty having voted in the affirmative and seventy five in the negative, with fourteen being absent and two vacant, the motion does not prevail.

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

Mrs. NELSON: Mr. Speaker, having voted on the prevailing side, I now move that we reconsider our action and further move that this be tabled for one legislative day.

Whereupon, Mr. Brown of Livermore Falls requested a vote.

The SPEAKER: The pending question is on the motion of the gentlewoman from Portland, Mrs. Nelson, that this matter be tabled for one legislative day. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

62 having voted in the affirmative and 71 having voted in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I am glad that we have the opportunity to debate this very important issue, and since we have not with the previous vote, I felt it was important that you remember just a few things.

Seven years ago, perhaps you don't remember that, but seven years ago as a fresh-

man I was asked by the chair of the committee, Health and Institutional Services, if I would give him a vote on a bill that he cared a lot about. It was about the second week of the session and I said yes. And I remembered that rule number one was that once you say yes you don't change your vote, you don't change your mind. That vote was to take off the helmets from the motorcyclists. For seven years I have lived with that bad vote. I knew it was wrong, I knew it was wrong at the time, and I listened to the debate and yet I had promised my vote and gave my vote, and for seven years I have worked to change that vote around, and now I have again the opportunity to speak to my peers to tell you of the enormous health cost to the State of Maine.

The Health and Institutional Services Committee, for 12 hours on Thursday, heard testimony regarding health costs in the State of Maine, and I want you to know that for no other reason, and let's not talk about freedom, let's not talk about these people having the right to choose whether they have a helmet or not, because it is costing you and every taxpayer in the State of Maine enormous amounts of money for that so-called freedom.

Now, we put hats on hunters, we put hats on people that work in construction. . . .

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

Mr. WILLEY: Mr. Speaker, a point of order.

The SPEAKER: The gentleman may state his point of order.

Mr. WILLEY: Mr. Speaker, am I missing something on this? I thought we had a roll call on this bill and also a division on tabling?

The SPEAKER: The Chair would answer in the affirmative, and that is why the gentleman has the right to debate the bill. The pending question is on the motion to reconsider.

Mrs. NELSON: I am pleading with the people to reconsider their vote and vote with the majority "Ought to Pass" report. It costs the State of Maine over \$50,000 a year to support these young people who did not know the value of their own head, and that is what it is all about. How much to you value your head?

Last night, I had the privilege of speaking to a young man who was a motorcyclist who told me lots of things. Just because I don't ride a motorcycle doesn't mean I don't have the right to talk about it. I have given birth to three children; that doesn't mean that I am the only one that should vote on what it is like to have a baby. We all here have a responsibility to the people that we are supposed to be representing.

This young man told me that he was wearing a helmet, but even though he had an accident, he is paralyzed from the neck down, he thanks God that he was wearing that helmet because if he wasn't he would be dead, and although he has only the use of his very keen mind, he pleaded with me on the phone last night to do everything I could to have this body insist that people wear helmets.

For a motorcycle driver who suffers brain damage in an accident because he didn't wear a crash helmet, it costs about \$2,500 a day to keep him alive, those first days in intensive care. His total hospital bill could easily run thirty to fifty thousand dollars if, as is often the case, he must then be placed in a nursing home. The price just to maintain him starts at \$12,000 to \$15,000, and sometimes rehabilitation services can push that cost to forty to fifty thousands dollars a year.

The non-helmeted motorcyclist is just one in a growing group of self-negligent Americans who are driving up health care costs with preventable injuries and illnesses. They demand freedom to behave as they please, they overindulge and to speed down highways without seatbelts or safety helmets, but if they are profoundly injured, many become permanent financial wards of the state, and so I plead with you, if for no other reason than the fact that we

can't afford to take care of these people anymore, the Governor said enough is enough, you stood on your feet and you cheered him—now you have the opportunity to vote with him on this area of, indeed, hospital cost containment, medical cost containment. I plead with you to reconsider your vote and vote with the majority of the Transportation Committee, "Ought to Pass."

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: The helmet bill is not a new law. It was in place from 1967 on. The purpose of the law was to reduce severe head injury and death for those who ride motorcycles. Independent studies conducted since the repeal of that law has shown that prior to repeal, nationwide 99.7 percent of riders chose to wear helmets. Since that repeal, we have seen severe head injuries take the toll of individuals and put them into institutions for extended periods of time at a high cost not only to them, their families, but to society as a whole.

Research on helmets, to wear or not to wear, dates back to the early forties, and the research has become remarkably consistent. Unhelmeted riders are from two to four times more likely to incur head injuries than those who are wearing helmets. Even more drastically, unhelmeted riders are nine times more likely to receive fatal head injuries than those who are wearing helmets. In this country, thirty to fifty thousand people each year suffer serious head trauma. Most of them are under the age of 30 and most of those as a result of motor vehicle accidents, accidents that physically disable and intellectually impair you, the unhelmeted rider, for all lifetime. With such an epidemic affecting the youth of this country, should we not take steps to correct it? Have we not taken steps to cure other health epidemics which have swept through this country, measles, mumps, polio, have we not had a history of attempting to eradicate disease that threaten our youth? I submit to you that this state is a leader among the nation in preventative health care; this is a preventative health care issue and the time is now for the state to continue its leadership.

There are currently 19 states which require motorcyclists to wear helmets, and the use of helmets is being encouraged and urged not only by health officials, by their foundations, public agencies, but by a major group of organizations and the motorcycle industry itself.

The Motorcycle Industry Council, the Motorcycle Safety Foundation and the American Motorcycle Association encourage and endorse the use of helmets. The American Motorcyclists Association requires the use of helmets in all sanctioned events.

I would submit for your consideration that the American Motorcycle Association's sanction is far safer for cyclists than those traveling the highways with some of the four-wheel motorists, and I would draw your attention to the motor vehicle accident yesterday when a four-wheel motorist ran head on into a motorcyclist.

Clearly, the best solution to the head injury epidemic in this country is prevention and, clearly, if the industry, the majority of riders, the general public endorsement of protective mandatory head gear, this legislation, you should look upon that favorably.

I received a lot of mail both pro and con since I sponsored this piece of legislation not only from people in my district but from people around the state. Friday I receive one from Monroe, Washington. In 1981, it reads, I had a motorcycle accident that left me unconscious for three days, but now I have fully recovered; my helmet saved my life.

I have gathered 52 motorcycle accident victims who want a motorcycle law. The State of Washington is considering it, some of the

states that surround us have mandatory helmet laws. I would urge this body to look at this preventative health measure in a positive way and reconsider our action.

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

Mr. MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to have you just think about Representative Nelson's argument for a minute and think about the headlines you have read in the newspapers of airplane crashes and bicycle accidents and accidents of all types that impose severe head injuries on individuals of this state, and I would urge you to oppose the reconsideration motion.

I am a licensed parachutist with 546 jumps and I wouldn't get in an airplane without wearing a helmet, I think that is very important, but let me tell you, if my chute didn't open, the helmet wouldn't help me very much.

I would also add that motorcyclists who wear helmets wear helmets of different types, and if we are going to mandate helmets, let's mandate good quality, top quality, \$150 helmets that provide adequate protection, because there are a lot of motorcycle helmets on the market that if a severe impact is imposed, they will crack and cause severe damage to the head that might not have been there had they not had that helmet on.

I think the word we are talking about in this bill is mandate; let's not mandate. I believe in helmets, I believe in people riding motorcycles wearing them, but let's not mandate them. Let's let people choose whether or not they would wear them.

The SPEAKER: Mr. Speaker, Ladies and Gentlemen of the House: This is hospital cost containment. There are letters that I have gotten from people who have said, "do something about hospital cost containment." Whether you are pro or con, whether you are for the Governor's bill or Senator Twitchell's bill, they want to do something about hospital cost containment.

We sit here and we talk about mandating. Well, ladies and gentlemen, one of these days we are going to have to do something about the catastrophic illness program because, as previous speakers have indicated, \$50,000 a year—\$50,000 a year—just think what that could do for some of the programs that are sitting on the appropriations table. If you take 10 motorcycle accident victims, that is a lot of money; that is a half a million dollars a year that this state, you, me and the rest of the taxpayers of the state are paying for.

Representative McGowan talked about the helmet law and what should we do about the price of it. If he wants to amend it and put on a strict amendment that says it should be of a certain quality, I don't think anybody in this House would have any problem. If you can afford the prices of some of these motorcycles, some of them are going as high as \$5,000 and \$6,000, that is as much as some of the cars nowadays, then I think you can afford a \$150 helmet.

Also, most of these people out there aren't even insured. If we want to put an insurance on it, fine and dandy, but let's at least get the helmet law back on so that these people who are writing to me, and probably are going to be writing to the rest of you people about hospital cost containment, will at least have the opportunity to say that this legislature did something about hospital cost containment.

I have gone into three X-ray rooms in the last three years. They looked at me and they said, "You can do one thing for me—put the helmet law back in—one thing, put the helmet law back in."

The SPEAKER: The Chair recognizes the gentleman from St. George, Mr. Scarpino.

Mr. SCARPINO: Mr. Speaker and Members of the House: There are just a few points I would like to clear up on the helmet controversy.

First, Representative Nelson mentioned the amount of head injuries that would be prevented by wearing helmets. She did not mention, and I don't really know if there is any documentation of it, the number of accidents that may be caused by wearing helmets. A motorcycle rider has got three prime things to protect himself—he has got his senses, the full awareness of his senses, and he has got the speed and maneuverability of whatever machine he is on.

As a former motorcycle rider, as a member of the AMA and one who is licensed to race over an expert track in the New England Sports Committee, my experience is that wearing a full helmet, which is the only kind of helmet that will protect you from breaking your neck when you strike some hard object, it cuts out about 40 percent of your vision and about 80 percent of your hearing. The simple fact of it is, while wearing a helmet there are many situations that you cannot avoid simply because you are unaware of those situations existing. By the time you become aware of them, it is too late to do anything.

Mention was also made about the AMA, that at all AMA sanctioned events helmets must be worn. Well, there is one thing that wasn't mentioned, and that is the simple fact that most of these AMA sanctioned events are competition, they are races, they are scrambles, they are flat tracks, they are TT's. It is just common sense in a situation of competition where you are traveling at high rates of speed and taking undue risks that you would not normally be taking on the road that you wear a helmet.

There is also the other consideration that in the sanctioned events you are dealing with all experienced drivers and you can predict what the individual is going to do, and you can concentrate your senses upon your driving and the machine. You do not have to put a large portion of your senses into watching and being aware of other things and unpredictable events.

The simple fact of it is that while in certain situations helmets are helpful, in other situations they create as many problems as they resolve. As was mentioned earlier, an improperly constructed helmet or a certain style of helmet may break individuals' necks when they strike objects. If they don't break your neck, they are guaranteed to break your collar bone.

Basically, this is a matter that should be left up to the individual. The individual should judge, based on the type of riding he does, where he rides and how he rides, whether he feels it requires a helmet or not. Accordingly, I would urge you not to support the motion to reconsider.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Racine.

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to speak in opposition to mandating to the people that drive, especially a moped, and I happen to be a moped owner and I like to go out, drive around the neighborhood, cruising about 10 to 15 miles an hour to cool myself off in the summer, and I'll be darned if I am going to wear a helmet to just drive 10 to 15 miles an hour.

Let me tell you what happened yesterday as an example. I tried to start my lawnmower and I ran into some difficulties—it wouldn't start. After trying to start the mower for about 15 to 20 minutes, if you will remember, yesterday was quite damp, humid and warm, so what I did to cool off was, I jumped on my little moped and pattered down the road. I was traveling at about 15 miles an hour when suddenly I heard a voice; there was a bicycle that passed me—a bicycle passed me. Now, if we are that concerned about safety and health cost containment, I think we should include bicycles in this bill.

The proponents of this bill are trying to impress upon us that if you wear a helmet, you

will not end up in the hospital and will walk away free—I don't believe that. I certainly object to having to wear a helmet on my little moped. As a matter of fact, if this thing becomes a law, if anyone wants to buy a moped, I will have one for sale.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: As a motorcycle enthusiast, I feel personally that the helmet is an extremely important item of motorcycle attire, but also of equal importance, I believe that goggles and leather jackets should have some consideration, and I wonder if we as legislators are prepared to mandate leather jackets and goggles as well.

I would urge you not to reconsider this motion.

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I could stand up here and talk all day about this helmet. You probably ought to put them in trucks when we go down the road, and everything else. But I had a boy that had a real bad accident, I might as well tell it while I am on my feet, I don't have anything written down here, so I will try to speak from the heart.

I had a boy that was thrown 150 feet from a motorcycle out into a pasture. It cost me \$42,000 because he had a helmet on. The helmet hit him in the back of the neck and he had a blood clot that was draining the blood from his brain, so what does he do, he suffered for five years and he threatened to shoot his wife and family, he threatened to shoot me, all on account of wearing a helmet. Who knows if he didn't have that helmet on whether he would have been killed or he would have been all right today.

But I am saying this—down in Transportation, we just voted not to wear seatbelts in cars and trucks. The federal government took the seatbelts out of the trucks because it was causing too much hardship for the drivers, they were strapped in there and they couldn't move around, they were having accidents, and if I am not mistaken, Mr. Cole was down there, he is head of transportation for school buses, he said, in no way did he want seatbelts in school buses because they didn't need them.

When you have got a helmet on—I rode a motorcycle part of my life—and you could be a vegetable if you fall off a motorcycle and broke your back. This idea about falling off and hitting your head, I don't think it is right. You can upset a truck and you can cost the state \$50,000 a year, you can upset a car and cost the state \$50,000 a year. I don't think you should mandate helmets for motorcyclists and I hope you defeat the motion today.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Matthews.

Mr. MATTHEWS: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as a cosponsor of L.D. 1072. Since many of the arguments in support of this legislation have already been mentioned, I will be brief.

I would like to address, however, the statement which many of the opponents of this legislation like to use, and that is that this bill and this kind of law represents governmental intrusion and intervention in the private affairs of each individual citizen. Fellow members of the House, I believe that the legislature and our government, state government, has a unique responsibility to play in the roles of individual citizens of this state. That role is a unique one and that role is to protect and enhance the quality of life of each individual citizen of this state. This bill would do that. My only urge to each member of this House is that you look down deep in your conscience and decide whether or not we as members of the legislature should not be involved in protecting our citizens and our residents of this state or

rather, as I believe and I am sure many of you believe, that there is a very, very important job for us to do down here, and that is to protect and enhance the quality of life of each member of this state.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mrs. Nelson, that the House reconsider its action whereby it failed to accept the Majority "Ought to Pass" Report. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

54 having voted in the affirmative and 72 having voted in the negative, the motion to reconsider did not prevail.

Thereupon, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Consent Calendar

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

(S. P. 360) (L. D. 1081) Bill "An Act to Change References to the Public Utilities Commission in the Transportation Statutes"—Committee on Transportation reporting "Ought to Pass"

(S. P. 466) (L. D. 1420) Bill "An Act to Amend the Laws Governing the Administration of Medications in Group Home Intermediate Care Facilities for the Mentally Retarded"—Committee on Health and Institutional Services reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of May 3, 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. 326) (L. D. 971) Bill "An Act Concerning Public Easements for Access to Harvested Lands and Cemeteries"

(S. P. 304) (L. D. 918) Bill "An Act to Reestablish the Time of Announcing a Shorter Deer Season" (C. "A" S-74)

(H. P. 400) (L. D. 483) Bill "An Act to Increase the Damages Jurisdiction of the Maine District Court to \$30,000"

(H. P. 376) (L. D. 459) RESOLVE, Appropriating \$15,000 for Maine Poison Control Center

(H. P. 515) (L. D. 640) Bill "An Act to Allocate Moneys for the Administrative Expenses of the State Lottery Commission for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency)

(H. P. 778) (L. D. 1027) Bill "An Act to Create a Revolving Fund for Publications of the Department of Marine Resources"

(H. P. 577) (L. D. 725) Bill "An Act to Clarify the Maine Motor Vehicle Habitual Offender Statute" (C. "A" H-172)

(H. P. 715) (L. D. 906) Bill "An Act to Amend the Reporting Requirements in Cases of Death Due to Abuse or Neglect" (C. "A" H-173)

(H. P. 306) (L. D. 365) Bill "An Act Regulating the Activities of Political Action Committees" (C. "A" H-174)

(H. P. 768) (L. D. 998) Bill "An Act to Regulate Interstate Bank Ownership" (C. "A" H-175)

(H. P. 120) (L. D. 128) Bill "An Act to Authorize Group Self-insurers to Add Participating Employers" (C. "A" H-176)

(H. P. 478) (L. D. 575) Bill "An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency)

(H. P. 858) (L. D. 1108) Bill "An Act to Strengthen the Penalties for Misuse of Narcotics by Health Professionals"

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 or passed to be engrossed as amended and sent up for concurrence.

Passed to Be Engrossed

Bill "An Act to Provide that an Absentee Ballot for a Municipal Election may be Issued Pursuant to an Application for an Absentee Ballot for a State Election" (H. P. 1157) (L. D. 1527)

Was reported by the Committee on Bills in the Second Reading, read the second time, the House Paper was passed to be engrossed and sent up for concurrence.

Enactor

Later Today Assigned

An Act to Amend Maine's Wrongful Death Law (H. P. 398) (L. D. 481) (C. "A" H-141)

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

On motion of Mr. Hobbins of Saco, tabled pending passage to be enacted and later today assigned.

Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

House Report—"Ought to Pass" in New Draft under New Title Bill "An Act to Clarify Legislative Intent Concerning Funding of the Maine State Retirement System" (H. P. 1155) (L. D. 1525)—Committee on Aging, Retirement and Veterans on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Maintain and Protect the Integrity of the Maine State Retirement System (H. P. 25) (L. D. 30.)

Tabled—April 29, 1983 (Till Later Today) by Representative Mitchell of Vassalboro)

Pending—Acceptance of the Committee Report.

On motion of Mrs. Mitchell of Vassalboro, retable pending acceptance of the Committee Report and later today assigned.

Bill "An Act to Require a Single License Plate" (H. P. 497) (L. D. 594)

Tabled—April 29, 1983 by Representative Reeves of Pittston.

Pending—Passage to be Engrossed.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: To reiterate briefly my comment on Friday, I would ask you not to accept this bill to be engrossed. The state police testified that this bill is one of the most cost-effective measures they have in terms of law enforcement and safety. It offers a reflectorized front item which by law the State of Maine does not require that there is a reflector on the front. We have one great big reflector on the front via that front license plate.

It is cost-effective in the sense that the gentleman from Portland, Mr. Baker, said it would cost \$105,000 a year for replacement plates. It did not take into consideration the \$87,000 of revenue generated by the \$5 fee charged to replace plates, so the net cost is about \$18,000 to the State of Maine, and I submit to you, ladies and gentlemen, that is probably the most cost-effective safety measure and enforcement measure that we have.

I would request a division.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Baker.

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: Just a few points to respond to the previous speaker. The fiscal note on this piece of legislation is \$105,000. That is the fiscal note. I submit to you that if we are to take into account fines as a means of planning a budget, then we would be making a very big and costly mistake.

Number two, we have not reissued a new plate since 1974. When it comes time, and it could be a matter of years, four or five years, to

reissue the new series of plates, there will be a cost savings of \$1.4 million dollars. There are more plates out right now than there are vehicles on the road, which leads me to believe that they are going to have to start issuing new plates very soon.

Third, I don't really believe this is a big safety issue. If it is, I ask everyone here on their way home from this legislature to count the number of vehicles that can be found without a front license plate; the number is staggering. On Thursday, I counted 10 vehicles alone between Portland and Brunswick without front plates. How effectively is it being enforced if it is that important a safety issue? If you were to go out to the parking lot right now, you would find a vehicle of a member of the other body without a front license plate.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Macomber.

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: It is very difficult to follow the eloquent gentleman from Portland, but I would just like to state a few facts that have not been brought out.

This was a large majority vote by the Committee. At the committee hearing there were representatives from the Maine State Police, there were representatives from the Police Chief's Association of the State of Maine—each and every one of those people took the time to come to hear, to testify and what they told us is that this is a very, very important law enforcement tool. They asked us not to take this tool away from them.

I think before you vote to have this bill engrossed, each and every one of you should contact the law enforcement officers in your district. I think you will find that they are one hundred percent against this bill, and I hope you will vote in that manner.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I felt it was only fair to let this bill have the pros and cons debated, the issue brought before you, but I feel the one license plate issue has been way overplayed.

The gentleman from Portland mentions the fact that he met 10 automobiles that had no front license plate. Those 10 automobiles could have been warned, they could even have been summoned for only having one license plate. It takes time to get the second one and put it on. They have to apply for it and it has to be sent to them. Were those 10 out there the next day and next day and next day?

I think the one license plate issue—I have heard the evidence presented here, and you have. I have heard it would save \$100,000, I am hearing a million dollars, I am hearing of tremendous savings, and I fail to see where these tremendous savings are going to come from. If you have a bank robbery and one bank robber gets away and we have to have a massive search, how much is that going to cost because we don't have a front license plate, because he was not identified when they met him on the highway?

I really feel, and I know that we take in over \$85,000 on people buying their second license plate, that you have not discussed the issue and it is time that we put the one license plate issue to bed.

Mr. Nadeau of Lewiston requested a roll call vote.

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 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 pending question is on passage to be engrossed. All those in favor will

vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Anderson, Andrews, Baker, Brannigan, Carroll, D.P.; Carter, Cashman, Crouse, Diamond, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Hobbins, Kelleher, Killoyne, Lehoux, Lewis, Locke, MacBride, Matthews, Z.E.; McGowan, McHenry, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Perkins, Pouliot, Racine, Randall, Reeves, P.; Rolde, Rondoni, Smith, C.W.; Thompson, Vose, Walker.

NAY—Ainsworth, Armstrong, Beaulieu, Bell, Bonney, Bost, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, G.A.; Chonko, Clark, Conary, Conners, Cooper, Cote, Cox, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Joseph, Joyce, Kelly, Ketover, Kiesman, LaPlante, Lebowitz, Lisnik, Livesay, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McPherson, McSweeney, Michaud, Moholland, Murphy, Paradis, E.J.; Parent, Paul, Perry, Pines, Richard, Roberts, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Soucy, Soule, Sproule, Stevens, Stevenson, Stover, Strout, Swazey, Tammaro, Telow, Theriault, Webster, Wentworth, Weymouth, Willey, Zirkilston.

ABSENT—Benoit, Connolly, Higgins, H.C.; Jacques, Jalbert, Kane, Mahany, Reeves, J.W.; Ridley, Tuttle, The Speaker.

Yes, 46; No, 92; Absent, 11; Vacant, 2.

The SPEAKER: Forty six having voted in the affirmative and ninety two in the negative, with eleven being absent and two vacant, the motion does not prevail.

Sent to the Senate.

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

An Act to Limit the Personal Liability of Municipal Employees under the Maine Tort Claims Act (H. P. 399) (L. D. 482)

Tabled—April 29, 1983 by Representative Mitchell of Vassalboro.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, I move that this Bill and all its accompanying papers be indefinitely postponed and would speak to my motion.

The SPEAKER: The gentleman from Durham, Mr. Hayden, moves that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence.

The gentleman may proceed.

Mr. HAYDEN: Mr. Speaker, Men and Women of the House: This bill, which I would direct your attention to, is L.D. 482, it is a bill, which if passed, and it is at the enactment stage right now, would limit the personal liability of municipal employees under the Maine Tort Claims Act. This is a bill that has waltzed through the House and the Senate, and frankly I think it has waltzed far enough. I think we ought to take a serious look at it and decide if this is the direction we want state government to be going in.

Let me explain to you a little bit about the bill. What this bill would do would be to spread the protection of immunity from torts, immunity from civil wrongs, to municipal employees and have that immunity be just the same as that which is enjoyed by state employees. Let me explain to you what that is.

Right now, individual state employees are immune from being individually responsible for their wrongs, for their torts, in excess of a given amount. So what that means is that as a legislature we have made a decision that if someone does a grossly negligent act and he is an employee of Bangor Hydro, he and his employer, who carries the insurance for him, will

have to take the responsibility for that.

We made a decision several terms ago in the legislature to treat state employees differently. If they commit a wrong, they are not responsible; their employer, us, the state government, is not responsible for acting as a responsible employer in providing insurance for them. This bill wants to extend that kind of protection, that cloak of immunity, to city employees. In my opinion, it is a bad idea, it is bad policy and it is unjust to the people who have had to suffer a wrong.

Let me explain to you a little bit about what I understand to be the history of why it was we decided in the first place to give this kind of cloak of immunity to anybody, let alone spread it on to city employees.

There was a time when the way that states, cities and other governmental entities insured themselves began to change. The state was a leader in that area and the state began to self-insure its employees. There was some question as to whether or not the policies covered by self-insurers would cover the individual wrongs of state employees, and as a result of that, a movement came afoot to make sure that this cloak of protection was given to state employees. Well, what has happened is, that self-insurance concept has begun to spread to our larger cities. Portland is self-insured, Lewiston is self-insured, and some of these larger communities wanted to make sure that they had that same protection, that they would be excused from the responsibility of carrying insurance to protect their individual employees. The basic argument in favor of the bill, the argument we heard in committee, the argument that was voiced in the Senate when it was debated, was that if we give this exclusive protection to state employees, why shouldn't we give it to municipal employees? They work for governments too; we should treat them the same.

My feeling is that anytime that we create a special class of people who aren't going to be responsible to a wrong-doer for the outcome of their actions, we should be very, very careful, and to willy-nilly just extend this to somebody else because the first person on the block got it, I think it is a bad policy.

Let me give you a concrete example of what will happen if we have this bill. We have a municipal-run hospital in the city of Caribou. Suppose a hospital employee there, a nurse, any employee there, is grossly negligent and somebody's life is seriously harmed as a result, they are crippled, they are paralyzed, right now that person, that nurse who was herself grossly negligent, or that hospital manager who was himself grossly negligent would be immune from the full responsibility of his actions. But if that happened at Maine Medical Center, if that happened at a hospital in Biddeford, that would not be the case.

I suggest to you, ladies and gentlemen of the House, we can go ahead and do this if we want, but it is pretty thin ice. What we are doing is, we are giving a special kind of protection to a group of people who I honestly don't think we should necessarily do it. We have a system in our code of justice that people are responsible for their wrongs. We also, for good or bad, have a system in our society where insurance takes responsibility for those wrongs. I don't think that there is any justification for extending a favor to towns, large or small, that they don't have to act like the same kinds of responsible employers that most of us have worked for in the past in carrying insurance to protect their employees and to protect themselves against that one rare instance of gross and very painful wrong doing.

That is my reason for urging you to vote to indefinitely postpone this bill. I don't think it can stand on its own two legs. I think the hope was it could sneak through this session; as we get near the end, that sort of happens sometimes. I think we ought to flag this one, I think we ought to think three times before we go on

with it.

I urge you to vote with me, to vote to indefinitely postpone it, and, Mr. Speaker, I wonder if you would instruct the Clerk to read the Report on this bill, which I believe was a Majority "Ought Not to Pass" Report.

Thereupon, the Report was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Westport, Mr. Soule.

Mr. SOULE: Mr. Speaker, Ladies and Gentlemen of the House: I think the concept behind L.D. 482 has been explained to you rather well by my copatriot on the Judiciary Committee, Mr. Hayden, but I think the same argument that he makes as far as the act being just or unjust cuts both ways.

The intent of this bill is to create equity in the ways in which employees of the state and employees of its political subdivisions are treated with respect to the question of a very limited immunity. Currently, under the Maine Tort Claims Act, which was passed several years ago, as Mr. Hayden had suggested, state employees do enjoy a limited immunity to the amount of \$10,000. The purpose of this act is to extend that same immunity to municipal employees and county employees; in other words, political sub-divisions of the state other than the state employees.

I think a simple example will show you the inequity in the current law. If a state employee negligently constructed a piece of exercise equipment at a state park and a person using it suffered a personal injury, that state employee is subject to a \$10,000 liability, that is even if the state has paid his insurance. If the equipment were constructed in a municipal setting by a municipal employee, that employee would be subject to the top limit under the Tort Claims Act of \$300,000, a liability which that employee would most likely have to pay out of his own pocket unless, of course, there were municipal insurance. That brings me to the second inequity in the law. As Mr. Hayden has suggested, the insurance coverages and the ways in which the state and municipalities have covered their employees has changed in the past few years. We have heard about self-insurance, and I think the change in the methods of insuring those employees has raised this issue in the sense that there becomes a question as to whether or not the municipal employees would have any benefits under that Tort Claims Act and whether or not they are covered by the municipal self-insurance.

This whole question here is whether we are going to treat municipal employees in a different manner from those of the state, and I urge you to reject the current motion and allow this bill to become enacted.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I haven't been involved with this bill, but I want to thank Representative Hayden for bringing it forth and explaining it to us, because these things go through here so fast, people are not in a position to be knowledgeable about bills. I think both gentlemen have made an excellent explanation.

Personally, I don't think the municipal people should be exempt. These people are responsible, the towns can pay the insurance to take care of them and I think the Tort Act should not apply to these people.

I thank them for their explanations and I am going to vote to do away with this bill.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: Just one departing word I want to leave you with—I think the basic argument in favor of the bill is—well, if somebody else on the block got it, then I should have it too, the towns should have it. I just had a baby daughter and when she gets to the age where

she is talking and saying, the kid down the street gets to stay out late at night so why can't I, I am not going to take that as a very persuasive answer.

Mr. Speaker, I would request a division.

Mr. Livesay of Brunswick requested a roll call.

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 in favor of 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 before the House is on the motion of the gentleman from Durham, Mr. Hayden, that this bill and all its accompanying papers be indefinitely postponed in non-concurrence. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Armstrong, Baker, Beaulieu, Bell, Bonney, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, D.P.; Chonko, Clark, Conners, Cooper, Cote, Crouse, Crowley, Curtis, Davis, Day, Diamond, Dillenback, Drinkwater, Erwin, Gauvreau, Greenlaw, Gwadosky, Hall, Handy, Hayden, Higgins, H.C.; Higgins, L.M.; Ingraham, Joseph, Joyce, Kelly, LaPlante, Lebowitz, Lehoux, Lewis, Lisnik, Locke, MacBride, MacEachern, Macomber, Martin, A.C.; Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McGowan, McPherson, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Murray, Nadeau, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perry, Pines, Pouliot, Racine, Randall, Reeves, P.; Richard, Roderick, Rondoni, Scarpino, Small, Smith, C.B.; Smith, C.W.; Soucy, Stevens, Stevenson, Stover, Swazey, Tammara, Telow, Theriault, Thompson, Vose, Walker, Webster, Wentworth, Weymouth, Zirkilton.

NAY—Andrews, Brown, D.N.; Carroll, G.A.; Carter, Cahsman, Conary, Cox, Daggett, Dudley, Foster, Hickey, Hobbins, Holloway, Jackson, Kelleher, Ketover, Kiesman, Kilcoyne, Livesay, Manning, Matthews, Z.E.; McHenry, Mitchell, J.; Murphy, Nelson, Perkins, Roberts, Salsbury, Seavey, Sherburne, Soule, Sproul, Strout.

ABSENT—Anderson, Benoit, Connolly, Dexter, Jacques, Jaldert, Kane, Ketover, Mahany, Reeves, J.W.; Ribley, Rolde, Tuttle, Willey, The Speaker.

Yes, 102; No, 32; Absent, 15; Vacant, 2.

The SPEAKER: One hundred and two having voted in the affirmative and thirty-two in the negative, with fifteen being absent and two vacant, the motion does prevail.

Sent up for concurrence.

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

An Act to Provide for the Use of Major Credit Cards at State Liquor Stores (S. P. 160) (L. D. 448) (C. "A" S-50)

Tabled—April 29, 1983 by Representative Brannigan of Portland.

Pending—Motion of Representative Brodeur of Auburn to reconsider whereby the House voted to Adhere to its previous action whereby this Bill Failed of Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call.

This is the last call on this bill to cast your vote to prove that you really care about the men, women and children whose lives will be destroyed by booze will mean 10 percent more mental and physical devastation for the very young, the adolescent, and the adults in Maine.

The argument that the booze bill will stick it to the tourists is wrong on two counts: Our tourist friends don't visit Maine to get drunk; if their prime interest was in booze they would go to New Hampshire and New Hampshire is a state that can't even balance their own budget. Our tourists visit Vacationland because of the natural beauty of the State of Maine and the fine people of the State of Maine. The 110th Legislature and the Governor of Maine got nationwide acclaim for the stand we took against booze, national coverage because we had guts enough to face up to our number one killer.

I hope the 111th and the same Governor get the same national acclaim for continuing to fight and let us be consistent and continue this leadership by voting no on reconsideration.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Paradis.

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I know that it is early Monday morning but I wondered what the gentleman meant when he said it was last call.

I hope you will vote for the motion to reconsider because I think there is a possibility that a Committee of Conference could work out some of the difficulties that some members in this body have with this bill. Some of the ideas that were suggested to the supporters of this legislation over the period of the last three or four legislative days have been, for instance, placing a \$50 minimum charge to the amount that you can buy using a credit card, permitting it to be used only in five or six major stores that would compete directly with New Hampshire for the tourist dollar, for the tourist trade, and putting a two-year sunset to see what type of effectiveness this bill would have and if there would be any problems, we could kill it two years from now—if there would be any major problems, I would like to emphasize. These were the ideas that were suggested. I think they have merit. If you think they have merit, I would ask that you vote for reconsideration and all the world will see in just a few minutes.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I had hoped that I would not have to stand here against this bill again, but you have had more time now to talk to the people you represent here and I hope they are the people back home because there is no support there whatsoever for this type of legislation.

As I have said before, I hate to reiterate the same thing, but the only support for this bill is within the hall of the House and I am sure there is none back home. I hope you will bear that in mind. We don't need to reconsider and I hope this is the last time that we have to say anything about this lousy piece of legislation.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly, I can see Representative Carter's newspaper, the Waterville Sentinel, tomorrow if we should pass this bill—"Legislators Speak with Forked Tongue: Last year vote to increase Premium on Liquor to take care of alcoholism—this year pass a bill to increase the consumption of liquor." It just doesn't make sense; I certainly hope we can defeat this bill.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I am really amazed that I would be dragged into a debate, that I would have my name splashed across the front pages of the local newspaper, accusing me of speaking with a forked tongue—I am really amazed. I don't know where this is coming from. I don't know what I have done to be labeled as I have just been labeled. I thought when I spoke on this bill last week that it was a common sense bill. If we are going to permit the state to oper-

ate as a business like any other business, then we ought to allow it to have the necessary tools and this is one of those tools. It makes much more sense to me because it is also a revenue producer, as I stated last week, and I would urge you to pass this piece of legislation. Maybe the publicity in my local newspaper might do me some good.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Members of the House: I think Representatives Carter misunderstood me, I had an "s" on the legislator, I said legislator(s).

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I suppose my name will be in the paper too because I haul a lot of that liquor into Hallowell from Baltimore, Maryland, Kentucky, Indiana, and I can't see—you know, I have been on the verge of bankruptcy here for a couple or three years and if I could find another \$100,000 to take care of my business, I wouldn't worry so much.

I was up in Taxation the other day when they were trying to get a bill through, they wanted a half a cent a gallon on the five cent fuel tax we put in. What is the matter with the \$2 million that this liquor bill is going to bring in to help those old people from Portland, Monmouth, Augusta or Calais. I think the state is in the liquor business now, like I am, and I think if they could pick up another couple of million dollars to help the old people with the buses and everything they want to use it for instead of taking it from the highway, I think we ought to vote for this bill.

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 in favor of 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 before the House is on the motion of the gentleman from Auburn, Mr. Brodeur, that the House reconsider its action whereby it voted to adhere.

The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, I request permission to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If Mr. Jalbert were present and voting, he would be voting yes; I would be voting no.

The SPEAKER: The pending question is on the motion of the gentleman from Auburn, Mr. Brodeur, that the House reconsider its action whereby it voted to adhere to its previous action whereby this bill failed of passage to be enacted. Those in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA—Andrews, Baker, Beaulieu, Brannigan, Brown, K.L.; Cahill, Carroll, D.P.; Carter, Cashman, Chonko, Cooper, Cote, Crouse, Dexter, Erwin, Gwadodsky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Ingraham, Jackson, Joseph, Joyce, Kelleher, Ketover, Kilcoyne, Lehoux, Lewis, MacEachern, Macomber, Manning, Martin, H.C.; Masterton, McColister, McSweeney, Melendy, Michael, Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Perkins, Perry, Pouliot, Racine, Reeves, P.; Richard, Roberts, Roderick, Rolde, Rotondi, Soucy, Soule, Stevens, Swazey, Tammara, Telow, Theriault, Vose.

NAY—Ainsworth, Allen, Anderson, Armstrong, Bell, Bonney, Bost, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Callahan, Carrier, Carroll, G.A.; Clark, Connors, Cox, Crowley, Curtis, Daggett, Davis, Day, Diamond, Dillenback, Drinkwater, Dudley, Foster, Gauvreau, Greenlaw, Higgins, L.M.; Holloway, Kelly, Kies-

man, LaPlante, Lebowitz, Lisnik, Livesay, Locke, MacBride, Martin, A.C.; Masterman, Matthews, K.L.; Matthews, Z.E.; Maybury, McGowan, McHenry, McPherson, Michaud, Mitchell, J.; Murphy, Paradis, E.J.; Parent, Paul, Pines, Randall, Reeves, J.W.; Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Strout, Thompson, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Benoit, Conary, Connolly, Jacques, Kane, Mahany, Ridley, Tuttle, The Speaker.

PAIRED—Jalbert-Mitchell, E.H.

Yes, 64; No, 74; Absent, 9; Paired, 2; Vacant, 2.

The SPEAKER: Sixty-four having voted in the affirmative and seventy-four in the negative with 9 being absent, two paired and two vacant, the motion does not prevail.

Sent to the Senate.

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

An Act to Amend the Probate Fees (H. P. 714) (L. D. 905)

Tabled—April 29, 1983 by Representative Diamond of Bangor.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Newport, Mr. Reeves.

Mr. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: This is the same bill that I spoke very briefly on a week ago Friday. I will not take a lot of your time this morning, as I did not then.

I expressed my concern about the tremendous increase in these filing fees. I stated then and I will state again, I am not concerned with the \$5 and \$10 fees, my concern is with the larger fees.

It bothers me a great deal to see a 100 percent increase and that, ladies and gentlemen, is exactly what this bill does. It concerns me to see the \$50 fee go up to \$100; the \$75 fee go to \$150 and the \$100 fee go to \$200. I believe in reasonable increases but to me this is an unreasonable increase.

I move that this bill and all its accompanying papers be indefinitely postponed. Mr. Speaker, I would ask for the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Westport, Mr. Soule.

Mr. SOULE: Mr. Speaker, Ladies and Gentlemen of the House: This bill, as Mr. Reeves has pointed out, does in fact raise the probate fees.

Let me give you a little bit of history behind the bill and behind the probate court, perhaps. Currently, in the probate court when someone comes in to use the facilities of that court for probating a will, for adoption, for a change of name petition, a fee is charged for the processing of those papers. The only objection we have heard to the increase today is the amount of the increase. Let me share this with you—the last increase in the probate court fees was in 1973, 10 years ago.

The second point to remember in deciding how you are going to vote on this bill is whether or not you want the fees that are charged to the probate court to come from those people who are using the courts or do you want the amount of money needed to run that court to come from your county taxes? I look at this bill as a property tax relief bill.

Currently, only about 35 percent of the probate court budget comes from fees; the balance comes from property taxes from your towns paid into your county. Compare that with the counterpart in the county system, the Registry of Deeds, and you see there that the Registry of Deeds is almost self-sustaining because of the fees charged to people who are using the system.

This is a substantial change, it is a substantial increase over the fee charged basically on the estates that are being probated within the counties. Those are the major increases. For all of the other changes, the fees go from \$5 to \$10; from \$25 to \$30 and the only really major change

is on those estates over \$250,000 where the fee goes from \$100 to \$200.

I suggest that this is not an unreasonable burden on those people who are using the courts. These fees go to the courts for the processing of those papers, they don't go into any lawyer's pockets, they don't go into the pockets of the people in the courthouse.

Let's vote for this bill, defeat the motion that is before us so those that use this system can pay for it.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Men and Women of the House: This bill, L.D. 905, is an attempt by the majority of the Judiciary Committee to raise the fee levels to more adequately reflect the cost of filing an estate in the probate court.

I will give you an example of York County. We have a very well run Register of Probate Registry of Deeds. Our Registry of Deeds returns to the county taxpayers, returns to the county budget, money every year. However, our Register of Probate, when mentioned before as well run, is subsidized by the property taxpayer of each respective community.

I want to give you an example of what this particular bill will do to the present fee structure in relationship to the size of an estate. For example, if someone dies and leaves a \$30,000 estate, under present Maine law there is a fee imposed of \$25. In L.D. 905, what this bill does is increase that fee to \$30. It is not a doubling of the fee, it is from \$25 to \$30.

Let's take another example. If a person dies leaving \$75,000 estate, under present Maine law there is a fee imposed of \$50. Under this bill, L.D. 905, the fee will be \$75.

Another example—if someone dies and leaves an estate of \$55,000 under present law there is a \$50 fee imposed for the probate of that estate. Under L.D. 905, that fee will be increased to \$75.

Let's take the example of an estate of \$125,000, under present Maine law a \$75 fee would be imposed; under L.D. 905, a \$100 fee would be imposed.

Let's take the example and maybe there are a few people in this body or maybe the state that have a \$7 million or \$8 million estate with a lot of complicated tax forms, a lot of complicated forms and the like, very sophisticated estate to probate, something where there is a specialist who deals in that area every day of the week to handle such estates, and most practicing attorneys in the state do not have the expertise to handle complicated estates such as that, in that particular case, under Maine law the fee schedule of more than \$200,000 or \$4 million or \$5 million estate would be \$100 for all the work involved. Under this particular bill, it would be increased to \$200.

As the good gentleman from Westport mentioned, I look at this bill as a property tax saving. It is unfortunate that our particular fees in our probate court do not reflect the amount of money that it takes to run that court, but it is my hope that the fee schedule outlined in L.D. 905 will be a step in the right direction.

I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think the previous speaker did a wonderful job explaining in detail the increases but I am still opposed to the bill. He did neglect to tell you that the reason there is so much paper work is so the state will get their share of the inheritance, which in some cases is a lion's share.

If these courts have too much help, and this is most always the case, probably we should see that they were put some place else where we could use them other than there, because the only way it could cost too much under the present system is because we have too much

help or they are not as busy as they are in the Register of Deeds Office. The Register of Deeds Office in Penobscot County, they seem to be very efficient and they seem to be self-supporting, as they are in Cumberland County or York. I am not dissatisfied with the Probate Court in my area, I think they do a pretty good job, but if it is getting so it costs us too much money, we ought to look into some other source rather than just reaching out and picking someone's pocket.

I am afraid that we have a lot of people today in the lower bracket where the estates don't get settled. They drag on for years and one of the reasons is that in some cases they don't even have the money available before the thing is settled to probate the necessary papers and the necessary attorneys. It isn't just that simple to probate a will. There generally is an attorney involved who has to have a \$200 or more retainer fee and so it is a little bit more than just this fee involved to go to the probate and probate even the small estate. I don't think we need this bill.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

Mr. LIVESAY: Mr. Speaker, Ladies and Gentlemen of the House: Just to briefly emphasize some points made by Representative Hobbins and Representative Soule. This bill really asks one very simple question and that is, how do you want to finance the running of your probate courts? Do you want to finance it with user fees or would you rather finance it with the property tax dollar? I personally prefer the idea of user fees and that is why I will vote against the pending motion.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker, Ladies and Gentlemen of the House: I have consistently supported user fees in this House ever since I have been here. I always voted for the gas tax and I fully intend to do as I did in committee, and that is to support this because I feel this is a user fee and that is where it should be and take as much as we can out of property taxation.

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

Mr. CARRIER: Mr. Speaker, Members of the House: I support the motion for indefinite postponement of this bill for many reasons. One of the reasons is that this bill proposes, as we have said before, in most cases a 100 percent increase in the fees. It probably seems to you as an untouchable situation in thinking yourself into a \$200,000 bracket and having to pay \$150 to \$200 in probate fees if this should happen. But if you consider your position, and for those of you who bought a house probably 20 years ago for \$20,000, today it is probably worth in the vicinity of \$60,000 to \$80,000 to \$100,000 and then in the course of your life you have acquired one or two cottages someplace, figure your personal property and everything else, you will find yourself, surprisingly, that you might be in the bracket of \$100,000, \$200,000 or \$300,000. You will fall victim to this increase in fees. You shouldn't be concerned about the increase in fees because you are not going to be here to fight it, you are not going to be here to enjoy any part of it, but you should at least have enough concern about your spouse who is going to get this particular estate and you should be very concerned as to what it will cost in filing fees.

I don't agree that there is that much more paper work in filing a \$200,000 estate than there is in a \$30,000 or \$40,000 estate. I think it is quite contrary, but even if there is, you get caught on both ends of the deal. You get caught by paying higher probate fees and you get caught by paying one third of the estate to the lawyer who files it. Don't worry about \$50 or \$60 worry about the one third. If you file a \$200,000 estate, they can grab up to \$70,000 or \$80,000. Now, that is nothing—\$100 or \$200 is

nothing, but the principle of it is still there, so you get caught on both ends.

As far as the fees coming from the taxpayers, this won't reduce anything, this won't reduce the property tax whatsoever. As far as the county budget, sure, they provide for it but the fact is, in the county budget it also provides for new fees for the Register of Probate and all its staff down there. If you are really sincere about helping the taxpayer, this is where we could start. It seems like it isn't much money, but to some people \$50, \$100 or so upon the death of their spouse is really a lot of money.

I suggest that this is not and never will be a property tax savings, that these are not complicated forms, that is a lot of bull, because if you want to talk about forms, how long does it take and how much time does it take to actually fill out the forms? We are not subsidizing; the taxpayer is subsidizing the probate court like it is with the whole court system to the tune of millions of dollars.

I would suggest and I would ask the people that voted against this bill the last time that they stay with us and we hope that those who voted to sustain the bill the last time will reconsider and think about their families at home and what the cost will be to them upon your death.

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. Those in favor of 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 Chair recognizes the gentleman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: If you want to subsidize someone having their name changed, and we had 40 in my county last year, they go in and they want to change their name from April to June and they pay \$5. If you want to subsidize people that are filing any formal proceedings, they don't pay anything. This will make them pay \$5.

The thing is, we allow the Register of Deeds to make their own way. This will allow the probate court to make their own way. We will not be running into a deficit spending in the probate court the way we are now.

As Mr. Dudley said, maybe there are too many paper being filed, but that doesn't make any difference. We can't say to the probate court, "You have to have fewer people to work," the cost is there. This will help pay the cost of running the probate court.

If you think to file as estate of \$25,000 up to \$10 million that a \$200 fee is too much and they should only pay \$100, don't vote for it. I think this is a fair bill. I think it is kind of nice to look at a record when you get to the county budget and find that the Register of Deeds is self-sufficient. I think it would be nice to look at the probate court and find that that is self-sufficient, and if there are any savings to be made in personnel, then you can cut down from there, but at least let's get it running in the black.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Newport, Mr. Reeves, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Anderson, Bott, Callahan, Carrier, Connors, Davis, Dexter, Dudley, Greenlaw, Higgins, L.M.; Ingraham, Jackson, Kilcoyne, Lehoux, Lewis, Locke, Martin, A.C.; Masterman, Matthews, K.L.; McGowan, McHenry, McPherson, Murphy, Parent, Paul, Perkins, Pines, Racine, Reeves, J.W.; Roderick, Salisbury, Sherburne, Smith, C.W.; Sproul, Stevenson,

Webster, Wentworth, Weymouth.

NAY—Ainsworth, Allen, Andrews, Armstrong, Baker, Beaulieu, Bell, Bonney, Bost, Brannigan, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Conary, Cooper, Cote, Cox, Crouse, Crowley, Curtis, Daggett, Day, Diamond, Dillenback, Drinkwater, Erwin, Foster, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Holloway, Joseph, Joyce, Kelleher, Kelly, Ketover, Kiesman, LaPlante, Lebowitz, Lisnik, Livesay, MacBride, MacEachern, Macomber, Manning, Martin, H.C.; Masterton, Matthews, Z.E.; Maybury, McCollister, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Perry, Pouliot, Randall, Richard, Roberts, Rolde, Rotondi, Scarpino, Seavey, Small, Smith, C.B.; Soucy, Soule, Stevens, Stover, Swazey, Tammaro, Telow, Theriault, Thompson, Vose, Walker, Willey, Zirkilton.

ABSENT—Benoit, Connolly, Jacques, Jalberty, Kane, Mahany, Michaud, Reeves, P.; Ridley, Strout, Tuttle, The Speaker.

Yes, 38; No, 99; Absent, 12; Vacant, 2.

The SPEAKER: Thirty-eight having voted in the affirmative and ninety-nine in the negative, with twelve being absent and two vacant, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following paper appearing on Supplement No. 2 was taken up out of order by unanimous consent:

Non-concurrent Matter

RESOLVE, to Reduce the Amount of Money to be Raised by Taxes in Penobscot County (H. P. 1159) (L. D. 1532) (Emergency) which was referred to the Committee on Local and County Government in the House on April 29, 1983.

Came from the Senate passed to be engrossed without reference to a committee in non-concurrence.

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

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Report of the Committee on Agriculture reporting "Ought to Pass" on Bill "An Act Relating to Agricultural Contracts" (S. P. 272) (L. D. 835)

Came from the Senate recommitted to the Committee on Agriculture.

In the House, on motion of Mr. Michael of Auburn, the Bill was recommitted to the Committee on Agriculture in concurrence.

Consent Calendar

First Day

(H. P. 997) (L. D. 1330) Bill "An Act to Authorize Coverage of Medical Supplies Under the Low Cost Drugs for the Elderly Program"—Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-178)

(H. P. 899) (L. D. 1178) Bill "An Act to Allow Domestic Assessment Mutual Companies to Appoint Agents" — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-180)

(H. P. 894) (L. D. 1159) Bill "An Act to Improve the Price and Availability of Radio Paging Services" (Emergency)—Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-179)

No objections having been noted, the above items were ordered to appear on the Consent Calendar of May 3, under the listing of Second Day.

Mr. Carter of Winslow moved that the House reconsider its action whereby Bill "An Act to Identify and to Promote Excellence in Schools" (Emergency) (H. P. 1163) was referred to the Committee on Education.

On motion of the same gentleman, tabled pending his motion to reconsider and later today assigned.

(Off Record Remarks)

On motion of Mrs. Allen of Washington, Adjourned until nine o'clock tomorrow morning.