

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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HOUSE

Monday, February 27, 1984

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

Prayer by Reverend Lester Dow, Jr., Fayette Baptist Church.

The members stood for the Pledge of Allegiance.

The Journal of Friday, February 24, 1984, was read and approved.

Communications

The following Communication:

STATE OF MAINE

Department of Human Services

Augusta, Maine 04333

February 9, 1984

TO: Members of the 111th Maine Legislature and Interested Citizens

FROM: Michael R. Petit, Commissioner, Department of Human Services

It is with great pleasure the Department of Human Services presents the enclosed report to the members of the 111th Legislature.

This report, on Maine's Welfare Employment, Education and Training Program is required by 22 MRSA sub-section 3778. This law authorizes the Department of Human Services to carry out a Work Incentive Demonstration Program, pursuant to the U.S. Social Security Act, Title VI-C Section 445, and consistent with the requirements and intent of Maine's Job Opportunities Act of 1981.

If you would like additional information about the WEET Program, or additional copies of the enclosed brochure, please contact Sarah Shed, Acting Director, Division of Welfare Employment at 289-2636.

Was read and with accompanying report ordered placed on file.

The following Communication: (S. P. 796)

STATE OF MAINE

Senate Chamber

President's Office

Augusta, Maine 04333

February 22, 1984

The Honorable Joy J. O'Brien

Secretary of the Senate

Augusta, Maine 04333

Dear Secretary O'Brien:

This is to advise you, that pursuant to my authority under M.R.S.A. 1, Section 1002, on January 30, 1984 I appointed Daniel P. Barrett, Esq. as a member of the Commission on Governmental Ethics and Election Practices.

Sincerely,

S/GERARD P. CONLEY

President of the Senate

Came from the Senate, read and ordered placed on file.

Was read and ordered placed on file in concurrence.

**Petitions, Bills and Resolves
Requiring Reference**

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

Energy and Natural Resources

RESOLVE, Authorizing the Bureau of Public Lands to Convey the State's Title to Certain Land in Grand Falls to the Grand Falls Historical Society (H.P. 1611) (Presented by Representative MacEachern of Lincoln) (Cosponsor: Representative Paradis of Old Town) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Ordered Printed

Sent up for concurrence. (Later Reconsidered)

Judiciary

Bill "An Act to Amend the Law Concerning Suspensions of Drivers' Licenses on Administrative Determination of Blood-alcohol Con-

tent" (Emergency) (H. P. 1612) (Presented by Representative Hayden of Durham) (Cosponsors: Representatives Drinkwater of Belfast, Carrier of Westbrook and Senator Violette of Aroostook)

Ordered Printed

Sent up for concurrence.

Public Utilities

Bill "An Act to Amend the Charter of the Passamaquoddy Water District" (Emergency) (H. P. 1614) (Presented by Representative Vose of Eastport) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Bill "An Act to Require Downstream Public Notification of Release of Water Impoundments" (H. P. 1613) (Presented by Representative Paradis of Old Town) (Cosponsors: Senator Kany of Kennebec and Representative Vose of Eastport) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Ordered Printed

Sent up for concurrence.

Reported Pursuant to the Statutes

Representative Higgins from the Committee on Taxation, pursuant to Public Law 1981, chapter 686, section 2 ask leave to submit its findings and to report that the accompanying Bill "An Act to Increase the Capitalization of the Maine Capital Corporation and Reserve Capital for Investment in Maine" (H. P. 1607) (L. D. 2123) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Taxation, ordered printed and sent up for concurrence.

Reported Pursuant to the Statutes

Representative Higgins from the Committee on Taxation, pursuant to Public Law 1981, chapter 686, section 2 ask leave to submit its findings and to report that the accompanying Bill "An Act to Provide More Venture Capital to Maine Business" (H. P. 1608) (L. D. 2124) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Taxation, ordered printed and sent up for concurrence.

Reported Pursuant to the Statutes

Representative Higgins from the Committee on Taxation, pursuant to Public Law 1981, chapter 686, section 2 ask leave to submit its findings and to report that the accompanying Bill "An Act to Repeal the Maine Capital Corporation and to Incorporate it under the General Corporation Law of the State" (H. P. 1609) (L. D. 2125) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Taxation, ordered printed and sent up for concurrence.

**House Reports of Committees
Ought to Pass in New Draft
Passed to Be Engrossed**

Representative Higgins from the Committee on Taxation on Bill "An Act Concerning Implementation of the Boat Excise Tax" (Emergency) (H. P. 1514) (L. D. 1989) reporting "Ought to Pass" in New Draft (H. P. 1610) (L. D. 2122)

Report was read and accepted and the New Draft given its first reading. Under suspension of the rules, the New Draft was given its second reading, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Divided Report

Majority Report of the Committee on Local and County Government reporting "Ought Not to

Pass" on Bill "An Act Concerning the Use or Disposition of Fort Gorges in Casco Bay" (H. P. 1520) (L. D. 2002)

Signed:

Senators:

ERWIN of Oxford

TWITCHELL of Oxford

SHUTE of Waldo

Representatives:

WENTWORTH of Wells

BROWN of Gorham

WALKER of Skowhegan

ROBERTS of Buxton

INGRAHAM of Houlton

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-481) on same Bill.

Signed:

Representatives:

McHENRY of Madawaska

ROTONDI of Athens

BOST of Orono

CURTIS of Waldoboro

DAGGETT of Manchester

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Representative McHenry.

Mr. McHENRY: Mr. Speaker, I move we accept the Minority "Ought to Pass" Report and would speak to my motion.

The SPEAKER: The gentleman from Madawaska, Representative McHenry, moves that the Minority "Ought to Pass" Report be accepted.

The gentleman may proceed.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: This bill would allow the state to buy a fort which is situated in Portland. This is a really beautiful fort, something that should be preserved. It is a historical site and I believe that the state should have one shot at buying it. This is all the bill does. It gives the state an opportunity to buy before it is sold to a private concern.

The bill originally asked that the state have one year to buy the fort, but we amended that to six months, and the minute that the state says no, which could be 24 hours after, then the fort could be sold to a private concern.

All we are concerned with here is that we give the state a shot to be able to buy that fort so that it could be preserved for the future, for your children, your grandchildren. That was my concern.

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

Mr. WALKER: Mr. Speaker and Members of the House: I think we ought to present the majority side of this and I would ask for a roll call on it.

The state has already had a chance to own the fort, as I understand it from the testimony. This was offered to the state before it was turned over to the City of Portland. There was no interest whatsoever on behalf of the state expressed at the hearing, and there is a private concern that wanted to acquire this, apparently.

The City of Portland would apparently like to rid itself of this because it is deteriorating. Therefore, the majority of us felt why hold up something for a buyer who at this point in time doesn't want to buy.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mrs. Wentworth.

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I agree with Representative Walker—the state has had a chance. The town or city should have control of its own property.

Fifteen years ago the state bought a park with beach property in my town and hasn't yet had a penny to improve it, so I don't think they would be any faster on this one.

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: Many of you may not

know what Fort Gorges is. It is a fort that was built for the War of 1812 in the middle of Portland Harbor. The stone was cut in Northern New Hampshire and part in western Maine and transported down there by oxen. It is a beautiful fort inside.

As a boy, when I was in high school, many a day we rode out to the fort and went through the old stone ovens and the underground passages.

I concur with the chair that the state should retain possession, or obtain possession, of this historical monument. It is one of two stone forts that were built in the Portland Harbor, and I think that it is a disgrace that the state has not taken possession of both of these forts previous to this.

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

MR. BAKER: Mr. Speaker and Members of the House: I would like to ask you today to support the motion by the member from Madawaska, Representative McHenry, to accept the report that this bill "Ought to Pass".

Twenty years ago when the state was given the option of purchasing this historic landmark, the state was, in my opinion, shortsighted in turning down the offer. It was then offered to the City of Portland under the condition that it maintain it in terms of the public domain for public use.

In the entire time it has been in possession of the city, this historic landmark, this fort, which is an exact replica of Fort Sumter, the historic fort which opened the American Civil War, has been allowed to languish.

It is, indeed, open to the public. If you have a small boat you may land there. Once you arrive at the fortress you will find that the bridge over the moat consists of three logs tied together, and once inside the campgrounds, the old parade grounds are in a state of ruin with broken glass and charred wood left over from campfires of people who have been out to use it.

There is a sign which warns of the dangers upon entering the fortress that was erected by the city, but the weather has worn the sign down to the point where it is almost unreadable.

Currently, the state, if it chose to do so, could exercise its option of taking over the fort through eminent domain. That is an option I do not wish. In fact, the bottom line, as far as I am concerned, is for the City of Portland to retain control of Fort Gorges. I do not want the city to lose control of this piece of public property. I prefer it to remain in the control of the city.

What the bill says is, if the city decides they want to sell, nobody is forcing them, if they decide, then the state has the first option. The state does not have to buy.

It has been said that there was no interest 20 years ago; that is true. I have criticized that policy as being shortsighted, but the policy is not simply shortsighted concerning one historic landmark. Go up and down this state and look at the many historic sites that we possess and ask yourself this question—are we doing enough in terms of public policy to make these landmarks the type of landmarks that we would really be proud of, that would attract more people, and that has a benefit in terms of economic development and tourism which this state prides itself in being very much in favor of. Then go to Canada sometime and visit Louisburg or Fort Beauséjour up in New Brunswick and look at the commitment that has been made to turn these sites into a living exhibit.

This is a policy that should be followed statewide. I don't want to get parochial here. There are many sites throughout this state which deserve our attention—Fort McKinley in Kittery, the shell heaps in Damariscotta, that's just two, there are many others.

I understand there is going to be a bond issue here that is going to send some money to help

upgrade these sites, which I think should be supported.

But to get back to Fort Gorges—simply because a bureaucracy today makes a decision, a bureaucracy says "we are not interested," does not necessarily mean that this is good public policy. We make public policy. If we make a decision that there should be some improvements or some attention called to a historic site, that is a policy we choose to make. Simply because a bureaucracy says we are not interested doesn't mean that we should drop the matter altogether.

During the debates on this fort, 220 cards had been sent in support of keeping Fort Gorges in the public sector, and those postcards were brought forth at the public hearing by a member from Portland, by a citizen of Portland.

I have had several calls, not very many but several calls, from people saying, "yes, the fort should be kept within the public domain." I have had conversations with people in the parks department of this state regarding Fort Gorges and they say, "well, we are not interested now but if people were to convince us there is an interest, we could change our policy."

What happens five or ten years from now when suddenly we begin to think that we want to upgrade historic sites because we know they are going to attract tourists and that means economic development for the state? What happens then when someone says, "let's use that option" and that option is not there anymore because we have defeated the option?

I will conclude by saying this much—I think we should keep the fort in the public sector. I think all the bill does is simply say, let the state take one last look, that is all. If the state says no, they are under no obligation to buy, the state has had its chance, the public sector has had its chance, and then the city can proceed and do what they wish.

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

MR. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I find myself in an awkward situation supporting Representative Baker, we don't usually agree. However, when we have guests come to our area, one of the first places that they go to, of course, is the Eastern Promenade and they look out and they see the beautiful harbor that we have here in the State of Maine and Fort Gorges is out there and we are very proud to have that sitting in our harbor and the history that is behind it.

I think it is a shame to think that either the city of Portland or the state would not control that property. I do not want people to come to the State of Maine and look out there and see a McDonald sign or flashing neon lights out there in the middle of the harbor in that ancient, beautiful fort.

I think it is something that we should give due consideration to. We have lost the Portland Station in Portland, Maine, another landmark that went, and I do not want to see something else go as easily. After the fact it is too late to do anything about it. Let's preserve it, let's keep it for our grandchildren and let's preserve the history that it stands for.

THE SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

MRS. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I feel a little awkward rising on this issue here this morning but I am going to opt to vote for the "Ought Not to Pass" Report.

Since the controversy arose regarding the use of Fort Gorges, I have worked rather diligently with my constituents, with the island population on this issue. Fort Gorges happens to be in my legislative district, and while I realize that it is property in our bay for all the people of Portland, I thought it was my responsibility when the controversy arose for me to do my homework with my own people.

I support all the arguments made here by

Representative Baker. I support his contention that our city has failed miserably in the need to preserve and to develop Fort Gorges for visiting and for access rights. I support the fact that the majority of the people in our area do not want the fort sold to private sources. I am willing to fight that issue. However, I contend that the fight or the arguments belong at the local level for now.

I attended a meeting last Saturday morning with the leaders of the various island people. I made my position clear before them as to why I felt that I could not support the bill and there was no dissent. As a matter of fact, they reminded me of the time when we let property on Jewel Island go to the state in hopes that the development of that area would serve the boat transports who wanted to stop at the beach on that island. We were given high hopes that they would develop it, and to this day they have not done a thing with the property, so I am very leery of letting the state take over anything because I cannot believe all the time in their commitments and their promises.

I would prefer for now that we wait for the results of a current study that is being carried on by the city of Portland on whether or not we can ever make the fort accessible to anyone and to how much it would cost to make it safe for anything to take place there. Once that is determined, we may be in a better position to encourage a local-state or a local-private-state effort to secure grants, etc., for rehabilitation and renovation of the fort to make it a worthy tourist attraction for all of Maine's people and to truly preserve the historic site as it should be preserved. We don't have any answers now, we don't even know if the fort is in a condition to ever be utilized for any purpose other than sitting there. It may well be that the cost would be so prohibitive to renovate that the only option anyone will have is to just let it sit there and watch it go into the bay because of the neglect that has occurred.

I think this bill would simply serve to hamstring any local effort and I believe that it has been documented again that at this point in time the state has no interest. Therefore, I would urge that you vote no on the minority report at this point in time, give the city who has begun looking at the issue the opportunity to find out what can or cannot be done, give those of us in the area the opportunity to make our positions clear on whether it should be sold or not sold, and if we are in trouble, I believe we will have another opportunity to come forward and maybe at that point in time we will have to beg the state to take it over. But for right now, I think that we should best leave the issue alone.

I have to say that Representative Baker has brought this forward to you in a highly honorable intent, but for right now the people that I represent simply feel that it is best to be left alone.

I ask that you support me with a no vote.

THE SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

MR. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would vote "Ought to Pass" on the Minority Report and it would take care of Representative Beaulieu's concern. The only time that this would come into action is if the city of Portland decides to sell it to a private concern. Before they sell it to a private concern, they must offer it to the state, that is all we are saying. Offer it to the state and the state can turn it down—24 hours, up to six months, they can turn it down, and if they do, the city of Portland can sell it.

THE SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

MR. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I am glad to be able to rise today and support the gentleman from Portland, even though it is for another reason.

There has been a great policy in the State of Maine in recent years that we have enacted all kinds of legislation to tell private parties how

they will manage or how they will not use their own properties so they are available for use by the public or for the benefit of the public. That has been a great program here. I wonder whether some of the philosophy behind this is that we would encourage the sale of this property to a private owner and then we will pass some laws and tell him what he can or cannot do with it but then we will have it on the tax roles or something.

I think the time has arrived where here is an issue that the state ought to put its money where its mouth is. If we want to save land, historical areas, lands adjacent to waterways, deer yards, I could go on and on of the laws that we have passed over the last five years to tell private landowners how they shall manage or how they shall not use their land, then I think it is time that we tell either a city or else the state to buy the land and put their money where their mouth is. I hope you will support the gentleman from Portland.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. Murphy.

Mr. MURPHY: Mr. Speaker, Men and Women of the House: Speaking today as an architectural historian, I think we sometimes have to realize the importance of an architectural gem moves beyond the border of a particular municipality, and I would urge you today, even though this is a Portland bill, to vote yes on the motion and defend the fort.

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

Mr. DUDLEY: Mr. Speaker, Members of the House: It is so seldom in this House that I have a chance to support the gentleman from Portland, Mr. Baker, that it is with great pleasure this morning that I support the motion that he spoke for and he is supported by another man that I have great respect for in the House, Representative Dillenback—he is generally right anyway.

Let me say that what I got on my feet for mainly was to tell you that the state seems to want to spend a lot of money claiming a lot of land and stuff in my area for parks and what have you and really there is not much there to see. You see one tree or a bunch of trees and you have seen them all, they are all the same, they are either pine, spruce, hemlock or fir in the State of Maine and there the people could see something different. Even my people might like to go down and see an old fort in contrast to seeing all these trees which they see every day. I would like to see the state spend some money in this area of the Portland bay rather than spend it in my area and tie up good, productive land, so I support the gentleman from Portland, Mr. Baker, because I think it is a tremendous idea.

A roll call has been requested on the motion to accept the Minority "Ought to Pass" Report.

More than one-fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Madawaska, Mr. McHenry, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 363

YEA—Ainsworth, Allen, Anderson, Andrews, Armstrong, Baker, Bell, Benoit, Bonney, Bost, Bott, Brannigan, Brodeur, Brown, D.N.; Callahan, Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Conary, Conners, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Curtis, Daggett, Davis, Dexter, Diamond, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Jackson, Jacques, Joseph, Joyce, Kelleher, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, Locke, MacBride, Macomber, Martin, A.C.; Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McColister, McGowan, McHenry, McPherson, McSweeney,

Melendy, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perry, Pines, Pouliot, Racine, Randall, Reeves, P.; Richard, Ridley, Roderick, Rotondi, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Soucy, Soule, Sproul, Stevenson, Stover, Strout, Swazey, Tammara, Telow, Theriault, Thompson, Tuttle, Vose, Webster, Zirkilton, The Speaker.

NAYS—Beaulieu, Brown, A.K.; Cahill, Day, Erwin, Ingraham, MacEachern, Masterman, Masterton, Perkins, Reeves, J.W.; Roberts, Robinson, Salsbury, Smith, C.W.; Walker, Wentworth, Weymouth, Willey.

ABSENT—Gauvreau, Hobbins, Jalbert, Kane, Mahany, Manning, Rolde, Stevens.

124 having voted in the affirmative and 19 in the negative, with 8 being absent, the motion did prevail.

Whereupon, the Bill was read once.

Committee Amendment "A" (H-481) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Consent Calendar First Day

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

(H. P. 1518) (L. D. 1999) Bill "An Act to Appropriate Funds for the Governor's Commission on the Status of Education in Maine" (Emergency) Committee On Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-484).

There being no objections, the above item was ordered to appear on the Consent Calendar of Tuesday, February 28, 1984, under the listing of Second Day.

(H. P. 1535) (L. D. 2020) Bill "An Act to Fund Rape Crisis Centers" Committee On Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-485).

On the request of Representative Carter of Winslow, was removed from the Consent Calendar.

The SPEAKER: The Chair recognizes the same gentleman.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The amendment that the committee attached to this bill was one of a technical nature. We thought it would correct the problem but perhaps it has not fully corrected it, and I refer specifically to line 27 of the amendment, which is H-485.

Originally the bill created a constitutional problem in that it required the commissioner to make allocations based solely on the recommendations of the Maine Coalition on Rape, which is clearly unconstitutional. It is an unconstitutional delegation of executive power to a private organization. To clarify that, the committee offered an amendment, and that is the portion that I think ought to be clarified. It is not the intention of the committee to delegate any power to any private group in the allocation of these funds. It should be the sole privilege of the commissioner to make the allocations based on the recommendations but not necessarily as recommended.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-485) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 1562) (L. D. 2064) Bill "An Act to Amend the Charter of the Van Buren Light and Power District" (Emergency)—Committee On Public Utilities reporting "Ought to Pass".

(H. P. 1563) (L. D. 2065) Bill "An Act to Amend the Charter of the Van Buren Water District" (Emergency)—Committee On Public Utilities reporting "Ought to Pass".

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, February 27, 1984, 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:

(H. P. 1484) (L. D. 1947) Bill "An Act to Change the Name of Coho Salmon to Pacific Salmon" (C. "A" H-478)

On the request of Representative Ketover of Portland, was removed from the Consent Calendar Second Day.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-478) was read by the Clerk.

Representative Ketover of Portland offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-487) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was assigned for second reading tomorrow.

(H. P. 1419) (L. D. 1864) Bill "An Act to Clarify Disposition of Assets of Maine Self-Insurance Guarantee Association in the Event of Dissolution" (Emergency) (C. "A" H-479)

(H. P. 1504) (L. D. 1980) Bill "An Act to Exempt Certain Materials that have no Insurable Value from Insurance Requirements" (C. "A" H-480)

(H. P. 1450) (L. D. 1902) Bill "An Act to Amend the Cessation of Employment Law" (C. "A" H-482)

(H. P. 1410) (L. D. 1832) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Life of Authorized Bonds (C. "A" H-483)

(H. P. 1434) (L. D. 1879) Bill "An Act to Increase Mileage Payments to Jurors"

(H. P. 1468) (L. D. 1920) Bill "An Act to Clarify the Power of the Supreme Judicial Court to Issue Rules for Probate Courts"

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

Finally Passed Emergency Measure

RESOLVE, to Authorize the Public Advocate to Intervene in Workers' Compensation Proceedings Before the Superintendent of Insurance (H. P. 1601) (L. D. 2106)

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

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

Mr. ARMSTRONG: Mr. Speaker, Men and Women of the House: I would urge you to vote against this emergency measure. This, as you can see, is a Resolve to Authorize the Public Advocate to Intervene in Workers' Compensation Proceedings Before the Superintendent of Insurance. This Resolve, if enacted, creates another level of bureaucracy.

As most of you know, at the present time we have a Bureau of Insurance that acts and makes the decisions on all the rate filings before it. I believe the Bureau of Insurance includes something like between 30 and 40 people and has an annual budget of something in the neighborhood of seven or eight thousand dollars.

In the 110th Legislature, I supported a bill that greatly increased the fees that accrue to the department, fees that insurance agents have to pay, insurance companies, adjusters and so on and so forth. The reason I supported the increase at the time was because the de-

partment needed more resources and more actuarial services in order to properly act on these rate increases. I believe with those additional resources, the department is well equipped to represent the public's good and in fact they have been exceedingly tough on any rate cases filed by insurance companies or by the rating organizations.

This particular Resolve takes a price tag of \$70,000 to go to the Public Advocate's Office. Under the Statement of Fact it says: "In recognition of the fact that the Public Advocate has not participated in insurance rate proceedings in the past, the Resolve establishes an advisory committee to assist in the intervening in the rate filing."

What this says is that our Public Advocate has no knowledge or past experience in insurance rate filings. So not only does the bill call for him to get involved in these rate filings, but it is also going to involve the training program so that the advocate will know what is being discussed between the insurance companies and the Bureau of Insurance.

Section 4 of the Bill says: "Consultant Services and expert Witnesses. Resolve, that the Public Advocate make contract with and retain the services of actuaries, private legal counsel and other necessary experts to assist in his preparation for and participating in all proceedings relative to the rate filing."

Ladies and gentlemen of the House, this is what we have in the Bureau of Insurance, what the Bureau of Insurance is for. They have actuaries, they have access to legal counsel, it is their job to act on these rate proceedings.

I urge you to vote against this Resolve that would just create another level of bureaucracy and put the public advocate into the insurance business.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Last session, as many of you are aware, there were a number of bills before the legislature which would in effect expand the role of public advocate in the State of Maine beyond the current jurisdiction of public utilities. There was a bill for the Maine Milk Commission, one for some insurance proceedings, and another, and a decision was made that rather than to examine these bills, and each one was before a separate committee—a decision was made rather than to examine these in somewhat of a piecemeal approach, perhaps it would be more appropriate to have a single committee review this and study the whole issue of an expanded role for the public advocate. So the Legislative Council approved a study for the Joint Standing Committee on State Government, and this fall and this winter they studied this whole role of an expanded role before LURC, DEP, the Maine Milk Commission, Health Care Finance Commission, Insurance Proceeds, and the committee discounted a number of things. They said there wasn't any need of getting involved in LURC, DEP or the Maine Milk Commission.

One of the recommendations of the committee, which is now a unanimous committee report, was that indeed there was justification for the public advocate to be involved in workers' compensation rate filings. It's a concept that isn't new to the State of Maine and there are several other states that allow either their public advocate or attorney general to intervene in these types of cases.

The reasons that we found as a committee to allow this type of expanded role were quite profound. First of all, workers' compensation insurance, unlike many property and casualty insurance rates, workers' compensation contains many of the characteristics of a monopoly. In the State of Maine, with respect to workers' compensation insurance, 7 percent of the firms that provide this type of insurance write roughly 65 percent of all the policies.

Secondly, unlike public utilities where indi-

vidual companies come before the Public Utilities Commission and present a rate filing increase, with workers' compensation, one organization, the National Council of Compensation Insurance, presents a cartel rate filing on behalf of 165 insurance companies providing workers' compensation insurance coverage in the State of Maine, and that rate filing on behalf of 165 companies could provide the same rate increase for all of them, regardless of how profitable the company happens to be.

Obviously, the resources available to these types of insurance companies that have nationwide holdings are phenomenal. Conversely, in the past, for these individuals in groups that have tried to intervene, such as some of the labor organizations and employer groups, they found it very difficult because it is a very expensive proposition trying to intervene in these workers' compensation rate filings.

Lastly, the technical and complex nature of these filings—if you have seen the filing this year, it is nine inches thick and it is so technical that it is almost impossible for any businessman back home to come down here and realistically try to analyze it for the types of things the insurance companies are doing, and it is for that reason that the Maine Chamber of Commerce and Industry supports a measure this year.

A lot of things have been said during the public hearings and again this morning by Representative Armstrong on what the role of the superintendent of insurance is, and I think the committee discerns the role of public advocate to be quite different from that of the superintendent of insurance.

The superintendent of insurance and the bureau evaluate the evidence and the data to determine whether the proposed rate increases are inadequate, excessive or unjustly discriminatory.

The problem is that the evidence or the perspective from which the superintendent of insurance base their final decision, the evidence that they receive is supported and supplied primarily by insurance companies. It was our feeling that allowing the public advocate to intervene in these filings with some adequate financial resources to do the job properly and professionally would insure that the superintendent of insurance is presented with facts and points of view other than from the insurance companies.

Let me just summarize the final arguments that the committee had. In the next two months there is going to be before the superintendent of insurance a \$30 million rate hike in workers' compensation premiums. I don't have to tell you what a \$30 million increase in workers' comp cost means to your employers back home. Workers' compensation is an expensive proposition and it is expensive for a number of reasons. The decision regarding workers' compensation is going to have a significant impact on the lives of Maine people. That decision in the State of Maine is made by one person, really an unusual circumstance appearing nowhere else in state government to have such a significant decision made by not a regulatory body, not a commission, but by one person, the superintendent of insurance, who is supposed to be protecting the public and by law has to protect the solvency of the insurance industry.

It's important to remember that we are talking about a cartel filing. We have one organization representing 165 insurance companies providing workers' comp insurance in the State of Maine. Some of these companies are more profitable than others, but if the workers' compensation rate filing is approved, they all get the same increase.

Finally, I think this year's filing is of particular importance. Because of the bill that we passed last session dealing with rate filing, for the first time in a long time we have really got some good figures, we have got some good

numbers because of the bill we passed last year mandating that they supply us with some facts and figures on how these rates are determined. We have got some information on the reserving practices, on the methodology that they use to establish these figures. It is in essence a model filing, and it will allow us to learn a great deal about how insurance companies are operating in the State of Maine.

In opposition to what the gentleman from Wilton, Mr. Armstrong, is suggesting about another actuary looking at the figures, the public advocate would be more than just hiring an actuary to look at the figures. The actuary is going to be an expert witness who would be appearing at the rate hearing and he will also be able to cross-examine the insurance companies to make sure that the rates are fair.

Workers' compensation has been for the last several years a dominating issue over this legislature, and I think it is incumbent upon us that we take advantage of this opportunity to make sure that the rates are justified, that the filing accurately reflects the needs of the industry and, above all, that the filing reflects the needs and the cost to the system. It is for these reasons that the State Government Committee has recommended unanimously that the intervention by the public advocate in this current rate filing, and this current rate filing only, is justified, and I would urge your support for this measure.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Originally, I was against this bill. I thought that the employers in their intervening spent enough money to handle a \$150 million case, and that is what we are talking about. I found, however, as many of you know, that the large employers didn't care because they are all self-insured. That left just the little fellow. The little fellow didn't have enough money to put up, and the amount of money that they put up was around \$12,000 for an intervenor—a good lawyer costs you that.

We are talking here about probably the most critical insurance problem in this state. I don't need to tell you all the comments we've heard about our workers' compensation system. However, it is highly important that this filing, which is so thick, should have all the help possible to go through it. I contend that the bureau does not have the help today to completely go through that filing and make a proper judgment. That doesn't mean they won't try, I am sure they will. However, they need all the help they can get.

A public advocate—if there is anything in the bill that I am not too happy about it is the amount of money that is suggested. I would much rather see it \$100,000 than the \$70,000, because I would like to have that advocate do a great job.

What they will do, they will get an actuarial firm which will run it, and they will get a good one, I know several and I am sure they do, that will do the type of job that is necessary here. But when you stop and think of the cost which could come to our employers if this present rate filing goes through, I think we need every bit of possible help, and that is what I think the public advocate in this instance can provide.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

Mr. ARMSTRONG: Mr. Speaker, Ladies and Gentlemen of the House: I still maintain that the bureau of insurance has adequate people and certainly the expertise to rule and properly evaluate workers' compensation cases. I think if we do not feel they have adequate people, adequate actuaries, we should once again address increasing the fees to boost up that particular department.

Mr. Speaker, I would ask for a roll call and I urge a no vote on this piece of legislation.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Robinson.

Mrs. ROBINSON: Mr. Speaker, Ladies and Gentlemen of the House: If this legislature is indeed concerned with a \$30 million rate hike, it should address the causes for the escalating costs, and those costs include the fact that our benefit levels in Maine are among the very highest in the nation.

Requiring an intervenor to address a rate hike case is not going to solve a continuing problem. Let's get back to the Workers' Compensation Law rather than putting another watchdog in government and wasting more taxpayers' money.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: Could we have the Committee Report on this?

The SPEAKER: The Chair would advise the gentleman that it is unanimous "Ought to Pass."

A roll call has been requested on passage to be enacted.

More than one-fifth of the members present expressed a desire for a roll call, which was ordered.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I, too, felt like the gentleman from Brooksville, Mr. Perkins, when this was first brought up to us, a way for the state to get involved in this pending workers' comp case. I was not particularly supportive of creating another level of bureaucracy, if you will, but there are a couple of issues here that I think are very important for the House to understand. One is that my understanding of the way the Bureau of Insurance works is that they are not in a position to be an advocate, an advocate for lowering or maintaining the status quo workers' comp rates. They are there to sit as judge in a presentation between the insurance people who are asking for a rate increase and whatever intervenors there are available. They are not funded adequately to be a protector of the business community who are going to have to pay those high rates. I think that that is important because, from our standpoint, from those people who are paying additional workers' comp premiums and because of the additional burden that that will place on Maine businesses, we need that expertise in making a presentation in an advocacy role rather than in an impartial judicial role.

Two, I do not see it necessarily as a bureaucratic nightmare, as another level of bureaucracy, if you will, in between. We already heard the gentleman from Fairfield, Mr. Gwadosky, talk about a one-shot deal, and that simply is what we are talking about here, a one-shot involvement with this particular rate case and this particular rate case alone, no other. That was a great concern to many of us who, when the idea of the public advocate getting involved with this rate case, objected seriously to that. One way that we felt to offset that was simply to put it in almost as a consultant basis rather than additional personnel. It is a one-time deal to hire someone to come in and look at the insurance industry and to look at that rate case.

I do not think it should deter our interest, this body's interest and involvement in trying to do something about statutorily changing workers' compensation costs. I agree with the gentlelady from Auburn, Mrs. Robinson, in that and I have spoken that—I don't think anybody in the House here would ever question my feelings about workers' comp.

At the same time, there are a number of people out there who are saying the insurance industry is ripping off Maine businesses by charging tremendously inflated workers' comp rates. I see this investment in time and money by the state as helping to allay those fears or perhaps to give credibility to them, one way or the other. My feeling is that when this is said

and done and the insurance industry has been looked at by a competent person in an advocacy role, as a mathematician or whatever you want to call them, then people are going to be able to make a decision on whether or not those rates are too high or not, and if that person comes back to us and says, we tried the best we can, we can find they are justifiable, then I think it creates more impetus to change the system as it is rather than to blame the insurance industry.

I am going to vote for this today. I share the concerns of those who are not going to vote for it but I see it as solving a couple of problems that heretofore have not been addressed.

The SPEAKER: The pending question is on final passage. This being an emergency measure, a two-thirds vote of all the members elected to the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 364

YEA—Ainsworth, Allen, Anderson, Andrews, Baker, Beaulieu, Bell, Benoit, Bonney, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Clark, Connolly Cooper, Cote, Cox, Crouse, Crowley, Curtis, Daggett, Day, Diamond, Dillenback, Drinkwater, Erwin, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Jacques, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kiesman, Killoyn, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Martin, A.C.; Martin, H.C.; Masterman, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McCollister, McGowan, McHenry, McPherson, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Reeves, P.; Richard, Ridley, Roberts, Roderick, Rotondi, Salisbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Soule, Sproul, Stevenson, Stover, Strout, Swazey, Tammara, Telow, Theriault, Thompson, Tuttle, Vose, Walker, Zirkilton, The Speaker.

NAYS—Armstrong, Brown, D.N.; Cahill, Calahan, Carrier, Conary, Connors, Davis, Dexter, Dudley, Foster, Greenlaw, Jackson, Masterton, Murphy, T. W.; Robinson, Seavey, Webster, Wentworth, Weymouth, Willey.

ABSENT—Carter, Gauvreau, Hobbins, Jallbert, Mahany, Manning, Rolde, Stevens.

122 having voted in the affirmative and 21 in the negative, with 8 being absent, the motion did prevail.

Signed by Speaker and sent to the Senate.

Orders of the Day

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

Bill "An Act to Include the Chief Executive Officer of the Finance Authority of Maine as an Ex Officio Corporator of the Maine Development Foundation" (Emergency) (H. P. 1497) (L. D. 1972) (H. "A" H-470)

Tabled—February 23, 1984 by Representative Kelleher of Bangor.

Pending—Passage to be Enacted. (Roll Call Ordered)

On motion of Mr. Kelleher of Bangor, retabled pending passage to be enacted and specially assigned for Wednesday, February 29, 1984.

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

Bill "An Act to Clarify That Notaries Public who do not Maintain a Seal of Office may Take Acknowledgements" (H. P. 1395) (L. D. 1818) (H. "A" H-467)

Tabled—February 24, 1984 by Representative Diamond of Bangor.

Pending—Passage to be Enacted.

On motion of Mr. Diamond of Bangor, retabled pending passage to be enacted and tomorrow assigned.

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

Bill "An Act to Require the State of Maine to Pay Late Fees on Overdue Payments" (H. P. 1411) (L. D. 1833) (C. "A" H-468)

Tabled—February 24, 1984 by Representative Gwadosky of Fairfield.

Pending—Passage to be Enacted.

On motion of Mrs. Mitchell of Vassalboro, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On motion of the same gentlelady, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentlelady offered House Amendment "A" (H-486) to Committee Amendment "A" (H-468) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk.

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

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: An explanation of the purpose of House Amendment "A" to Committee Amendment "A"—though the Committee on State Government worked very hard to come up with a workable solution of applying business practices to the way the state government pays its bills, there seemed to be a problem for agencies that had far-flung offices, for example, the Department of Human Services. What this amendment proposes to do is to change the 12 working day period that we gave the State Controller for processing the bills and invoices, we take two days away from them and give them ten and give the line agencies fifteen days. So the purpose really is to give the agencies a little more time to get their bills into the Office of Finance and Administration. In order to do that, we take some of the time that we had originally given the Department of Finance and Administration.

The bill's basic purpose remains the same, it simply is a more workable way to approach the problem with this amendment, and I urge its adoption.

Whereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

On motion of Mr. Gwadosky of Fairfield, the House reconsidered its action of earlier in the day whereby Resolve, Authorizing the Bureau of Public Lands to Convey the State's Title to Certain Land in Grand Falls to the Grand Falls Historical Society (H. P. 1611) was referred to the Committee on Energy and Natural Resources.

On motion of the same gentleman, the Resolve was referred to the Committee on State Government, Ordered Printed and sent up for concurrence.

(Off Record Remarks)

On motion of Mr. Strout of Corinth,
Adjourned until nine o'clock tomorrow morning.