

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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(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

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HOUSE

Tuesday, September 11, 1984

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

Prayer by Reverend John Fickett of Augusta.

The Journal of yesterday was read and approved.

At this point, the rules were suspended for the purpose of allowing members to remove their jackets.

The following paper was taken up out of order by unanimous consent:

Divided Report

Six Members of the Committee on Taxation on Bill "An Act to Revise Certain Portions of the Tax Laws Relative to Income Tax Conformity, Sales Taxes, Real Estate Transfer Taxes and Cigarette Taxes" (H. P. 1885) (L. D. 2485) report in Report "A" that the same "Ought to Pass" in New Draft under New Title Bill "An Act to Revise Certain Portions of the Tax Laws Relative to Income Taxes, Sales Taxes, Real Estate Transfer Taxes and Cigarette Taxes and Increase Revenue Collections" (H. P. 1898) (L. D. 2494)

Signed:

Representatives:

KANE of South Portland
CASHMAN of Old Town
ANDREWS of Portland
HIGGINS of Portland
KILCOYNE of Gardiner
McCOLLISTER of Canton

Four Members of the same Committee on same Bill report in Report "B" that the same "Ought Not to Pass".

Signed:

Representatives:

MASTERMAN of Milo
JACKSON of Harrison
DAY of Westbrook
INGRAHAM of Houlton

Three Members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass" in New Draft under New Title Bill "An Act to Revise Certain Portions of the Tax Laws Relative to Income Tax Conformity, Sales Taxes, Real Estate Transfer Taxes and Cigarette Taxes and to Increase Revenue Collections" (H. P. 1899) (L. D. 2495)

Signed:

Senators:

WOOD of York
TWITCHELL of Oxford
TEAGUE of Somerset

Reports were read.

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

Mr. HIGGINS: Mr. Speaker, I move acceptance of Report "C," the "Ought to Pass" Report, which is L. D. 2495.

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves that Report "C" be accepted.

The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: If you look at Supplement No. 1, you will see that I am on the Majority "Ought to Pass" Report. Since the time that the Committee deliberated this bill, and having had an opportunity to discuss this with a number of Republican legislators as well as Democratic legislators, members of the Taxation Committee as well as members not of the Taxation Committee, something has become fairly apparent. This House is not in a position where they are going to address any major tax policy to fund the education bill. As much as it is a priority of this Legislature and a very strong priority to properly fund education, it appears that the only reasonable alternative that can garner the support of the men and women of this House is Report C; therefore, I urge your acceptance of Report C.

Basically what this does is, it provides for

federal tax conformity, which has been a long-standing issue in this House. It provides for tax conformity for this particular tax year and it does full conformity, something that the Tax Conformity Committee last year urged acceptance of, and I think at this point in time—I haven't been one who has been very strongly in favor of tax conformity, but I think it's a good tax policy at this point in time.

Secondly, this proposal, Report C, which is supported by all three Senators, including the Senate Chair, Chairman Wood, provides for a sales tax to be extended to liquor. That is, we will be repealing the sales tax exemption on liquor that is sold in agency and in package stores.

It also imposes an increase in the real estate transfer tax. Currently the real estate transfer tax is \$1.10 per thousand dollars of value. It would raise it to \$2.20 per thousand dollars in value. When real estate is exchanged for money, there is generally a closing. At the closing, the seller of the property generally ends up paying the transfer tax. This is one of those negotiated closing costs.

It also repeals the sales tax exemption on cable TV, not the basic service but purely for the premium channels. Basic service will continue to be exempt but premium services such as Cinemax, Show Time, Home Box Office and so forth will be subject to the sales tax as a discretionary purchase.

The other major portion of this bill deals with the cigarette tax. The current law, as passed by the Congress, is that the cigarette tax is 16 cents per pack. The law as it stands now will be sunsetted on October 1, 1985, whereby the cigarette tax will be decreased from 16 cents per pack to 8 cents per pack. This bill, Report C, calls for the state to assume a redirection of these revenues. When the federal tax goes down to 8 cents on October 1, 1985, the state will impose a tax of 8 cents per pack. This will be a redirection. There have been a number of programs that have been funneled from Washington to the states to assume the financial responsibility for, and now we have a funding source being funneled to the states as well, and I hope you will accept this funding source.

I urge your support for Report C.

The SPEAKER: The Chair recognizes the gentleman from Harrison, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I guess it's no secret, you know where I stand this morning.

I rise in opposition to the acceptance of Report C and I would like to explain my reasons for doing that. I guess the first reason that I have is that we are going to create a new tax on those users of extended cable service. This is unique, ladies and gentlemen, unique in the fact that we don't impose any taxes on any events, movie theaters, things of that nature, when we attend those functions. If we happen to have purchased cable services in this state prior to this amendment, we pay no taxes. Those users of cable television enjoy the same opportunity that the civic center enjoys, your local theater on main street enjoys, or the new stadium in Old Orchard Beach enjoys. Today, with the adoption of House Amendment "C," you would in fact, as the Representative from Portland has said, impose a 5 percent sales tax on those extended services.

Number two, we are repealing a tax exemption which has been enjoyed by some of the farmers in this state, the blueberry farmers, on the fuel that they use in burning their blueberry land. Granted, it's not much money but it's a procedure.

Number three, have no doubt, ladies and gentlemen, October 1, 1985, irregardless of what the federal government does, there will be an additional 8 cents per package on cigarettes in this state, a commodity which is already taxed heavily, which this Legislature has seen fit in the last two years to impose strong penal-

ties. And I suggest that if we want to deter a warrant to prohibit people from smoking in this state, instead of doing it economically, let's do it statutorily and make it illegal to sell cigarettes in this state.

I guess the fourth thing, it's not near and dear to my heart, but we are doubling the transfer tax, as the Representative has indicated, in an attempt to balance a funding package which I feel and many other members feel is not adequate. We have seen figures removed and replaced. We have seen figures removed and estimates increased in order to accomplish this. I don't think that it is sound fiscal policy, I don't think it is a sound tax policy for this state, I don't think that it will encourage or help in any respect.

In closing, I would just think that we should label House Amendment "C" as fiscal fantasies, because that is exactly what they are.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I've sat in my seat on a couple of occasion during this special legislative session and I have heard a new term which in some cases makes me smile but in other cases makes me a little concerned, because I think that the term that I've heard is a misrepresentation to the people of Maine of exactly what is happening down here. And rather than keep you in suspense any longer, I'll tell you what that term is, it is "redirection of revenues." When the Governor first used that term, I came out of my seat a little bit because I hadn't heard it before. As I listened to him and as I listened to the gentleman from Portland, Mr. Higgins, this morning, he used the same term, redirection of revenues. I guess what they are saying is, if the federal government is going to give us a tax break, that we should take that tax break at the federal level and impose it upon the people of the State of Maine as a new tax or a tax increase.

So, let's get the facts straight. We're not talking about redirection of revenues, Mr. Higgins, we're talking about higher taxes for Maine people. When the Reagan Administration went through three years of tax cuts, would we have been justified to have taken those tax cuts at the federal level and impose them on the Maine people by saying it's a redirection of the revenues? It's not a redirection of revenues, it's a tax increase, let's call it that.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: I'm glad I had the opportunity to make Mr. Brown smile this morning. I know he has made me smile now as well.

It's all a matter of wording, Mr. Brown, to a large degree and how we happen to see it. But the bottom line here is the tax on cigarettes is not going to go up, it is not going to go down, it is going to stay the same. The law is that it will go from 16 cents per pack to 8 cents per pack, that is the law as it now stands. When ours goes into effect, it will not raise the prices unless the federal government raises it themselves as well. It will have no impact on the pocketbook of the Maine people as far as cigarettes stand unless the federal government repeals the sunset provisions.

I would also like to address some comments raised by the gentleman from Harrison, Mr. Jackson. First of all, his first point dealt with cable TV. Clearly, this is a discretionary purchase. We tried to take into account that a lot of the states cannot receive broadcast television in the quality so that they will know what is going on in the outside world and have the availability to see the television programming. HBO, Cinemax, they are clearly very discretionary purchases, not available except in the cable entity. I guess the question we were facing was whether we should raise rates or eliminate exemptions, exemptions that many of us felt were not warranted in a good, sound tax

policy for the state.

The issue of blueberries. The current exemption provides that for gasoline used for the burning of blueberry fields, this gasoline is exempt from the sales tax. The industry trend, as told to me by the blueberry industry, is getting away from burning. There are alternatives there. And the fiscal price on this particular amendment, or section of the bill, is less than \$15,000. I think it is a legacy that has been left here in the past that doesn't warrant the tax policy of Maine to continue.

As far as the doubling of the tax for the transfer tax, Maine currently has the lowest real estate transfer tax in New England and one of the lowest in the nation. Even doubling our real estate transfer tax here, it will not put us in the high brackets in the nation, will not put us in the high brackets for the particular region of New England, or put us in the middle, where we have traditionally tried to keep our tax policy, not on the high end because we have, in order to fund the state programs, we have tried to have a fair mix, and I think this fits into that fair mix.

Also, I would like to know, if we do not fund education with this proposal, what is the alternative? I think it is clear that the caucuses have eliminated Report A. We have before us Report C, and Report B is to not fund it at all. Where is the responsibility in there? Do you want to vote for a good education policy but not pay for it? Is that the responsible thing to do here today? I think not. If we have an alternative to funding it, let's hear it. I would be glad to address and look at other possibilities but I haven't seen them. We don't see them before us now and I don't think we are going to see them later today.

It is my hope that this proposal will receive your support. It's the only proposal we have before us and the only one in the foreseeable future, and I think it is a responsible one. We have gone through this tax proposal segment by segment, and I think it is fairly justified and I urge your support.

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

Mr. DAY: Mr. Speaker, Ladies and Gentlemen of the House: In reply to my Taxation Chairman about not wanting to fund it, the bills and so forth from Education, that's true and I've led the fight not to fund it the way we are doing it.

There has been much talk about education since the Nation at Risk came out. I have worked for better education since the days when I wrote a weekly column in our local paper for three years, from 1960 to '62, trying to get better education in Westbrook. I think I have helped Westbrook because we do have a good system. I wish every town in the State of Maine had as good a system as we have—still, something is wrong with it. Most of the teachers in town know me. Hardly anybody runs for the school board in Westbrook without my knowing something about them, because I feel they are as important as city councillors because the future of this country depends on education, democracy depends on education, you can't have democracy where you have illiterate people.

If we are serious about this education improvement, and I hope we are, I am somewhat concerned by the fact that we are trying to fund it by hit or miss, choose and pick, and hit the blueberry fire fiction, the hot movie watchers, smokers, drinkers and somebody who happens to have to pay money to transfer real estate.

I believe education should be broad based. Many of you have seen the proposals that I've been talking about for over a month in trying to get a broad based tax. I have written out several proposals for it as fliers to see if there was any support for it. There is some. Everybody says it is a good idea but it won't fly.

I have dubbed L. D. 2492 and its various marriage partners, whichever they are, 2494 or 95,

as the bills of indecent haste. We're ramming it through, we've seen the printed bill now for 16 or 17 days, there are lots of questions. We have to form a new Commission to get the answers to it, and they are going to reply to you folks—not me, I won't be here—by late March.

I very strongly feel, and I voted against the education bill yesterday and I will vote against funding today because I would like to delay this to have more time and let the Commission come out and decide what we should do. We're not going to pay this "stipend," if we do, for 17 months, and why we can't wait another two or three is beyond me.

I would hope that the 112th could solve this problem when we have more answers. There is really no need to ram this thing through now. I think we could learn a lot from the Commission. Our people back home would know more, and we probably wouldn't have to, or you folks won't have to rectify as many mistakes as are probably going to come out in 2492. So, having said that, I want to assure you I'm not anti education, never have been, but I just think a little bit of indecent haste is not what we should do.

Mr. Speaker, I ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mrs. Ingraham.

Mrs. INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I am in favor of improving education in Maine and I commend the Education Committee for all their positive efforts and productive efforts, but I signed these tax bills "Ought Not to Pass" for the following reasons:

When we were called back into session we were told we would be dealing with a \$100 million education reform bill. One bill raises \$4.3 million, \$2.8 million of which is to fund the Education Bill. The other bill raises \$9.3 million, an income tax increase, both a far cry from \$100 million.

Included in both tax bills are many proposals that I question. These are the proposals, and I would like to say that the people of Maine, I don't think knew what was in this funding package. First of all, the Cable TV, it is discriminatory.

Secondly, blueberries. This is an old shoe that has been kicking around for a long time and now we are finally nailing it to the floor.

Libraries. I certainly am not opposed to libraries. My question is, this costs, it doesn't gain, so why is it in this package?

There is an interesting one that has been withdrawn, it is related to cigars. Cigars, clippings, trimmings, snuff and sweepings, whatever that means, it is such a catchy phrase I hate to see it go.

The cigarettes—the tax on that has been proposed that it be contingent upon the feds allowing us those 8 cents and it is not written anywhere that that is going to happen.

Lastly, there is a section referring to administrative funding and four audit positions, and I really don't feel that the Taxation Committee is in the business of hiring or firing state employees.

Remember last spring when the committee started usurping the authority from other committees and it got a little testy and I really feel that that is not within our jurisdiction.

I consider that there has been a lack of proper consideration by the Legislature, a lack of informing the public, a lack of public input. I would be a lot more comfortable with a new tax proposal if it had received proper legislative treatment, which seems to me should have happened in the 112th session in a longer time frame. The importance of both of these measures, education and taxation, warrants more study and more consideration than we have been able to give since September 4th, seven days ago, one week on a \$100 million dollar package.

In response to Representative Higgins' comment, "where is the fiscal responsibility?" Com-

ing out with a "Ought Not to Pass" isn't a very positive approach, perhaps, but my positive approach would have been to move indefinite postponement of all these related bills so we could take care of them properly in the 112th session of the Legislature. Laws of this magnitude deserve much more time, information and work than we have given them.

Now tell me honestly, how do you think that motion would have gone?

Representative Day of Westbrook requested a roll call on the motion to accept Report "C."

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 Auburn, Mrs. Robinson.

Mrs. ROBINSON: Mr. Speaker, I would like to pose a question through the Chair. My question is about Section 11 of the bill. I have just spoken to my Register of Deeds from Androscoggin County on the phone and my question is, by decreasing the amount of money that the counties keep from the real estate transfer tax from 15 percent to 10 percent, whether the Registry of Deeds offices in the various counties are going to have enough money to pay for their departments or whether we are going to have to have the legislative delegations increase the amount of money from the property tax that is going to be going to Registry of Deeds offices to help them run?

The SPEAKER: The gentleman from Auburn, Mrs. Robinson, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: This was a concern that I shared earlier during the public hearing. I would like you to know that despite the decrease of 5 percent in what the Registry of Deeds receive, because of the increased revenue rate they will be receiving a 33 percent increase. I think that this helps them meet their budgetary needs a little bit but there is no need to give them a doubling bonanza, so that is why it was lowered from the 85 percent to the 90 percent of what the state takes.

The SPEAKER: The pending question before the House is the motion of the gentleman from Portland, Mr. Higgins, that the House accept Report "C."

The Chair recognizes the gentleman from East Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, I ask leave of the House to pair my vote with the gentleman from Auburn, Mr. Michael. If Mr. Michael were present and voting, he would be voting yes; I would be voting no.

ROLL CALL NO. 518

YEA—Ainsworth, Andrews, Beaulieu, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carrier, Carroll, D.P.; Carter, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; Mayo, McColister, McGowan, McHenry, McSweeney, Melendy, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paul, Perry, Pouliot, Reeves, P.; Richard, Roberts, Rotondi, Smith, C.W.; Soucy, Soule, Stevens, Swazey, Tammara, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Allen, Anderson, Armstrong, Bell, Bonney, Brown, D.N.; Cahill, Callahan, Carroll, G.A.; Cashman, Conary, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Kane, Kiesman, Lebowitz, Lehoux, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, Michaud, Mills, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Paradis, P.E.; Parent, Per-

kins, Pines, Racine, Randall, Reeves, J.W.; Ridley, Robinson, Roderick, Salisbury, Scarpino, Sherburne, Small, Smith, C.B.; Sproul, Stevenson, Stover, Telow, Walker, Wentworth, Willey, Zirkilston.

ABSENT—Baker, Connors, Curtis, Gauvreau, Gwadosky, Joyce, Livesay, McPherson, Rolde, Seavey, Webster, Weymouth.

PAIRED—Michael Strout.

77 having voted in the affirmative and 60 in the negative, with 12 absent and 2 paired, the motion to accept Report "C" did prevail.

Thereupon, the New Draft was read once. Under suspension of the rules, the New Draft was read the second time.

Mr. Moholland of Princeton offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-767) was read by the Clerk.

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

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I hope you won't take the exemption off the fuel for blueberry land. As you know, most of my constituents own blueberry lands in Washington County and due to all the DEP things that they put on all these outhouses and new houses on the blueberry lands and due to a high market of blueberries, the people in Washington County with blueberries lost a lot of money this year. It is only a matter of \$12,000 or \$15,000, I think all of the people who represent the farmers in Aroostook County, if they did that to the farmers and exempted all the fuel and everything, I think we would have a big squabble here today, so I hope you will help me.

I would like a roll call, please.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: I feel in somewhat of an awkward position in having to oppose Mr. Moholland's amendment here today. I would move for the indefinite postponement of this amendment.

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves the indefinite postponement of House Amendment "B."

The gentleman may proceed.

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: It is not with any intent to discriminate or anything against any particular industry but there does not appear to be a need for this particular exemption any longer. It is one that we felt was dubious at best in our tax policy system and I hope that you will support the motion to indefinitely postpone.

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

Mr. KIESMAN: Mr. Speaker, I would like to pose a question through the Chair. Would someone inform me if this tax we are speaking of is a highway use tax, a sales tax or what exactly kind of a tax are we talking about?

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

The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: This is a sales tax exemption for gasoline that is used for the burning of blueberry fields. It does not affect the Highway Department in any way.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: Representative Higgins had mentioned that new methods are being used in place of burning the blueberry fields and I won't deny that. I am sure that the large firms that own a lot of blueberry fields are doing just that, but I think we are talking about the small farmers in our area that don't have large fields and they aren't going to go to that modern method right off. They are going to have to continue on because of lack of money.

Mr. Moholland also spoke of the market. We have a glut this year of blueberries and we are having difficulty selling them. The price that was received for blueberries this year was very low. The farmers are actually hurting and they don't have a heck of a lot in Washington County that is given to them that I can see as far as exemptions are concerned. This very, very small amount of money we are talking about may seem small to the Legislature here today but it seems like a great deal to that one farmer going out there using gasoline to burn his blueberry field.

I think we could find somewhere else within this state that \$15,000 that we are taking away from the blueberry farmers. I can understand taking away from cigarettes or putting something on cigarettes, but I don't smoke anymore and perhaps it shows up, maybe I eat too much, but it doesn't bother me whatsoever to put additional tax on cigarettes. If it discourages someone from smoking, that is fine with me. As far as the liquor is concerned, I feel the same way. As far as cable is concerned, I feel the same way about that, but when it starts coming down to blueberries, a small farmer in Washington County, in our depressed county, that is when I think we should draw the line.

I would hope that you would support Representative Moholland's amendment and find the \$15,000 elsewhere.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Portland, Mr. Higgins, that House Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

The Chair ordered a division. 37 voted in favor of the same and 89 against and subsequently the motion did not prevail.

Whereupon, House Amendment "B" was adopted.

Mr. McCollister of Canton offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-768) was read by the Clerk.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is very simple, it does just one thing. It keeps the whole bill honest to the public.

This amendment states that if the federal government for some reason does not reduce the cigarette tax by eight cents, that we don't impose an eight cent excise tax on cigarettes. It merely keeps the price of cigarettes, as far as taxes are concerned, where it is now.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: I would hope that you would not support the adoption of this amendment and the principle is very, very basic. The whole funding package is contingent upon this. How can you support a funding package and then say, well, we really don't care; if someone else wants to make a change, maybe we should let them. Is there any certain support for the education package here?

What we will be doing is we will be delegating our responsibility to set tax policy here in this Legislature. We are going to let Jesse Helms and all those other folks down in Washington determine what the tax policy here in Maine is going to be and we are going to leave it up to them, and if they decide they want to extend or repeal the sunset date, that is going to be fine and we are not going to have a funded education package. It is very basic here, where is your true support? If you voted for education and you feel that it should be funded, you should not support this amendment, and I would ask for the indefinite postponement of this amendment.

The SPEAKER: The gentleman from Portland, Mr. Higgins, moves that House Amendment "C" be indefinitely postponed.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: When Mr. Higgins presented L. D. 2495, he stated that these taxes met Maine's tax policy of staying somewhere in the middle of taxes levied in New England. If we permit this eight cent tax on cigarettes to go through, we become number one as far as the taxes on cigarettes in the nation. What happened to Mr. Higgins' idea of staying somewhere in the middle? I ask you to defeat the motion.

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

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: The comment of my good friend from Canton, Mr. McCollister, combined with the comments of earlier speakers on other matters dealing with this cigarette provision, has raised some concerns and I think it has clouded the issue somewhat and I would like to clarify that.

Mr. Jackson mentioned earlier this morning that what we would be doing no matter what happens in Washington, we would be raising the cost of a pack of cigarettes by eight cents. That simply is not true, that is not the intent of this provision and that would not be the case. What we are saying is that there is a law in place already, passed by Congress in 1982, and that was to sunset a provision that increased the cigarette tax which sunsets that in 1985.

As Mr. Higgins pointed out, we want to pick up that revenue when that sunset takes effect and it is scheduled to take effect. It is not something that is being proposed or debated down in Washington now, it is the law, it is in effect. We want to take advantage of that. It was something that the President implied and encouraged the states to do when it first took effect.

Now the Speaker of the New Hampshire House has already led the fight I think in New England and encouraged other states to follow their lead and the lead of Maine in adopting this revenue. It is a redirection of revenue. The citizens of this state who buy cigarettes will not pay one penny more, as the law now reads, should we adopt this, not one penny more.

Now there has been some talk in the halls and the opponents of this provision have been advocating rejection based on the possibility that Congress will remove that sunset, that sunset that is, again, set for October 1, 1985.

I checked with the Bureau of Taxation a few minutes ago to find out what they felt was the probability and I have talked with Washington all week about this and the thrust is in opposite directions. What is taking place in Washington is that they are being more generous to the tobacco interests.

They passed a provision this past year that allows the retailers of these tobacco products to recoup that eight cents, to bring it back, the money they have paid in over the three years that this law will be in effect. Their direction is not to remove that sunset and continue that federal excise tax; their direction is in the opposite way.

To me, I think it is a sound proposal. It is the cornerstone of this funding mechanism for this education package, and I think if we are going to deal with this fairly, we are going to have to base our arguments on the laws that exist in Maine, the laws before this body and the laws at the federal level that do exist now. I don't think we can afford to speculate on "what if"—"what if the laws change in Washington."

You can talk about it all you want but the fact of the matter is, we have to operate our actions and our policies based on facts, and I think not only is this particular contingency plan that Mr. McCollister is proposing unnecessary, I think it is superfluous. I think we should go with the report as the Chairman of the Taxation has proposed and I ask that you support the motion to indefinitely postpone.

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

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to support my friend and colleague, Mr. McCollister, in this really very, very simple effort to make this honest and straightforward.

The gentleman from Bangor says that this is unnecessary, not only that, it is superfluous. It may be that but it is straightforward and it is honest.

There is really one question here and that is whether or not we are going to enact the cigarette tax. I proposed a sales tax on cigarettes a few years ago, ended up voting for it, supported an increased mill tax on cigarettes, and if all this tax did was just go ahead and put a plain increase in the mill rate tax on cigarettes in Maine, I think I would be pretty likely to vote for it but the way that it is dressed up in this package so that it is a tax that is not suppose to look like a tax, I really can't buy it. I can't go home and go down to the coffee shop and look people in the eye and say that we really didn't raise a tax, we just managed to take \$12 million from somewhere.

What Mr. Diamond said was that the 1982 law sunsetted this provision. It did sunset it but first it enacted it. This is not an old tax. In 1982, Congress needed money and in their grossly misnamed "Tax Equity and Fiscal Responsibility Act" they gave away far more taxes than they raised and this is one that they did raise. They said it would last three years and then it would be sunsetted.

Mr. Diamond also has been talking to Washington over the last week and he says that he doesn't think that it is going to go that way. He thinks that Congress is just going to give up this money. I think Senator Cohen was in Portland yesterday and in response to questions from some Maine mayors said that he didn't think it would happen. He thought that Congress would keep it. My understanding is that Senator Mitchell has made similar comments and Senator Mitchell is on the Senate Finance Committee. I think it is very likely that Congress will not just give up this approximately \$3 billion.

Mr. Diamond says that we should not speculate with regard to the "what ifs" of Washington and Washington politics. The only way that we could not speculate on this, on whether or not we have enacted a tax, and I am not against cigarette taxes, I've voted for every one since I have been here, but we can leave here and know what we have done only if we adopt this amendment. There is nothing fancy about it, there is nothing tricky about it, all it says is that if the federal tax goes down, our tax goes up by an equal amount. If the federal tax does not go down, then we will come back and raise some more money, maybe via cigarette taxes, maybe via some other way, but at least we can go home and look people in the eye.

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

Mrs. MITCHELL: Mr. Speaker, I would like to pose a question through the Chair to anyone who is supporting this amendment. The education package that this body endorsed in large part yesterday is predicated on the funding package which is embodied in Report "C," which is before this body. If we adopt the amendment proposed by Representative McCollister, in the event, and goodness knows, nobody in here knows what is going to happen in Washington next year, but in the event that Congress does indeed repeal that provision and the excise tax stays on in Washington, I would like to ask Mr. McCollister how his amendment then would address the funding needs of the education package that we are passing because, as I see it, this would disappear on the state level and there would be a big gaping hole in the funding package for our education package. I would like to know what you propose to fill in the blanks?

The SPEAKER: The gentlewoman from Vassalboro, Mrs. Mitchell, has posed a question through the Chair to anyone who may respond if they so desire.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: The question that has been posed by Representative Mitchell is very easily answered by saying that we have 17 months to address the needs of the tax "if" Washington keeps the eight cents for themselves. I really cannot see their problem. They have been saying from the beginning that this is a redirection of taxes. What is wrong in being honest with the people and say that if the taxes aren't there, we are not going to redirect those taxes?

Representative Higgins of Portland requested a roll call on the motion to indefinitely postpone House Amendment "C."

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, I ask leave of the House to pair my vote with the gentlewoman from Auburn, Mrs. Robinson. If she were present and voting, she would be voting no; I would be voting yes.

ROLL CALL NO. 519

YEA—Ainsworth, Allen, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carter, Connolly, Cote, Cox, Crouse, Diamond, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Jalbert, Joseph, Kelleher, Kelly, Ketover, Locke, MacEachern, Mahany, Manning, Martin, A.C.; Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, Norton, Paul, Reeves, P.; Richard, Rotondi, Soucy, Soule, Swazey, Tammara, Theriault, Thompson, Vose, The Speaker.

NAY—Anderson, Andrews, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Cahill, Callahan, Carrier, Carroll, G.A.; Cashman, Chonko, Clark, Conary, Cooper, Crowley, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Gauvreau, Greenlaw, Hobbins, Holloway, Ingraham, Jackson, Jacques, Kane, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, MacBride, Macomber, Martin, H.C.; Masterton, Masterton, Matthews, K.L.; Maybury, McCollister, Michaud, Mills, Murphy, E.M.; Murphy, T.W.; Murray, Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Ridley, Roberts, Roderick, Salisbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevens, Stevenson, Stover, Strout, Telow, Tuttle, Walker, Wentworth, Willey, Zirkilton.

ABSENT—Baker, Connors, Curtis, Gwadosky, Joyce, Livesay, McPherson, Michael, Rolde, Seavey, Webster, Weymouth.

PAIRED—Higgins, L.M.-Robinson.

54 having voted in the affirmative and 83 in the negative, with 12 being absent and 2 paired, the motion to indefinitely postpone House Amendment "C" did not prevail.

Whereupon, House Amendment "C" was adopted.

Mr. Carrier of Westbrook offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-766) was read by the Clerk.

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

Mr. CARRIER: Mr. Speaker, Members of the House: I present this amendment because I think it is extremely unfair, unjust, and any other word that you can think of to actually turn around and ask the people of this state to double the transfer of real estate tax. There is no reason whatsoever that that should be done.

I would like to go back a few years ago and explain to you why this transfer tax came

about. It came about because during the war this was a measure for them to help pay the cost of the war.

I was here many years ago, along with others in here, and it was the same situation then as you had this morning on the cigarette tax. The federal government was going to expire the tax on real estate and the state government was greedy enough at that time that they wanted that tax. At that time they did not need that tax. We had a \$33 million surplus; that was probably ten or twelve years ago. Today, they are just as greedy by not giving the people back the money or give them a break on the transfer tax. They not only have the gall to leave it where it is but they want to double it. There is no reason whatsoever why it should be doubled.

You people here have had experience in the real estate transfer tax and it is really ridiculous in a lot of ways because nothing we do in this House is consistent. Very few things are consistent and that includes real estate.

Let me give you some very short examples. We wanted to help people to buy houses, but do you know that today they can raise the down payment but they can't raise the closing costs. Some of you people turn around and say, great, and maybe you have to be commended for it, you say we will give them a little raise in the minimum wage of 10 cents an hour, give them an extra \$4.00 a week, but do you realize that on a \$50,000 house—this is not ridiculous no matter how the example sounds—if somebody buys it and he did get that 10 cents an hour more or \$4.00 a week, he has to work an extra 13, 14 or 15 weeks in order to pay that extra \$55.00? This is ridiculous, just as it was ridiculous to come with low interest mortgages to help people buy. You give them something on one hand, which I am in favor of, but on the other hand you twist them and put a double reverse clutch around their pocketbook and make it almost impossible for them to afford it. That is why I presented the amendment, hoping to postpone this section of the bill.

Another thing is, I don't mind losing, I don't mind discussing, and I am really out for it today, but the fact is, ladies and gentlemen, that you read the papers like I do and in the Portland papers, probably three or four days ago, an aide from the administration downstairs had the gall to say on the front page of the paper that anybody who buys a \$50,000 house will only mean an average of an extra \$25.00 in transfer tax—that is not true. The transfer taxes are \$1.10 a thousand and if you figure on \$50,000, that is \$55.00. Some people will resort to all kinds of things to get their way and we know this and you are aware of it. That was right on the front page of the Portland Press Herald about three or four weeks ago and if you want to know who it is, get hold of the paper.

I think that this tax is ridiculous and is not needed. They are getting plenty of money as it is right now. The state is getting its share, which I think they should have dropped back a few years ago, so let's turn around and give the people a few bucks, not out of the coffers but just by not charging them extra taxes as we have done for the last few years in here.

I think it is a good amendment and I think that you should support it; I hope that you do.

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

Mr. HIGGINS: Mr. Speaker, I move the indefinite postponement of this amendment.

A few moments earlier we passed a funding package for the Education Bill. What has happened since? We are piecemealing it apart. First it was blueberries, and I am sure that blueberries will never grow in my backyard again after what I have done. Next, cigarettes. I may not be able to get back into my neighborhood store after that. We have taken money away with the blueberry tax, we have created extreme uncertainty, certainty that we need to

encourage people to go into the education profession, certainly that they are going to have fair wages in the future, that wasn't just a one-shot deal. Now what are we doing? We are piecemealing it out again, another \$357,000 here and there, here and there. We have unfunded liability now that we are creating. Is there going to be any funding? What is the next move going to be? Take tax conformity out? No, probably not, because that is making money for us this year. But then again, despite arguments in the past, maybe business would prefer to keep two sets of books when it is in their favor. Is there going to be anything left to this package?

I hope that you will keep the real estate transfer tax in there so we can have a funded bill; otherwise, our action is getting less responsible and less responsible.

I urge you to support the indefinite postponement of this amendment.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not support the pending motion to indefinitely postpone and I will state you my reasons for backing my good friend from Westbrook Mr. Carrier.

When we were discussing the education package we were told that the funding would not affect the property owner, or at least I was led to believe that. If you are going to increase the real estate transfer tax, who are you taxing? The property owner? He may be selling his house—the seller normally pays the real estate transfer tax, so the individual that is selling, at the time of the sale he is a property owner, so you are taxing property owners. I don't think that we should. This was the understanding when we came up here, that the property owners would not be taxed to support the Education Bill.

I hope you will vote against the pending motion to indefinitely postpone Mr. Carrier's amendment.

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

Mr. DUDLEY: Mr. Speaker, Members of the House: I have been very reluctant to say anything but I just thought I ought to say a few words so you would know that I was here.

I didn't say anything about education because that is a bit out of my line, but let me tell you I know something about the closing costs. The people my age are not normally buying homes, it is young people trying to get settled and all they can buy now practically is a house trailer, but those few who are able to finance a home, the closing costs, in most cases, is \$500 or over. Now we have made it so that an attorney has to check the title, the bank has to send an appraiser and before they get all done, it is a very small piece of property you can buy with less than a \$500 closing charge. You meet at the bank and the bank has all this laid out and itemized and in most cases it comes to considerably over \$500.

These young people have just gotten married quite recently probably and they have to buy a certain amount of furniture; some of them may sleep on the floor but most of them have to buy a little bit of furniture and they try to buy a home and this is what they run up against, a stone wall. I think it is wrong, we are picking on the wrong people.

I have heard so many people in this House say that they want to help the poor. Well, they are going to keep on until everybody is poor, that is what it amounts to.

I think there are so many things wrong in the Education Department. I see the school district up where I live and I am sure that if I were to run it I could save them \$50,000 just on little things like, oh, they are too numerous to mention in the House this morning. I would keep you here until dinner time, but I think they are very loosely run. In other words, I couldn't run

my business as loosely run as the school departments in this state are run; I would be out of business; I would have been out of business long ago. They have got to sharpen up too and we have got to find the money but let's find it on a broad basis.

The cigarette tax is probably all right. I don't smoke and no one else in my family does. I think that is picking on one very poor group of people. Generally, the smokers are poor people that don't have any other recreation. They are the ones that buy the cigarettes. They are probably going to die with cancer in a little while so it won't make that much difference.

These are young people that we are talking about now on this amendment that hope to be around for awhile, they hope to raise a family, they hope to have a home and establish in the State of Maine and let's not throw any more trigs in, let's not meet out here in the hall and say we are going to try and help the poor and we actually shaft them every time we meet here. We grab their pocketbooks and run with them. We are not helping as many people as we are hurting and I think today Mr. Carrier's amendment should be accepted for sure.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: I just would like to make one point clear here. Some of the opponents of the motion that I have made have kept bringing up "young people who are looking to buy a house, recognize that." It is the seller, the person who is selling the house or the land that pays this at the time of closing. It does not increase the cost to the buyer. It is the seller who is selling the property that in today's economy that has escalated and appreciated in price and, hopefully, they are selling it at a profit.

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

Mr. LEHOUX: Mr. Speaker, Ladies and Gentlemen of the House: I am getting sick and tired of hearing that the seller is going to foot the cost on this. On paper, yes, the seller normally pays the transfer tax but don't kid yourself, it is pushed off onto the buyer in the total price of the house.

Representative Martin of Eagle Lake requested a roll call on the motion to indefinitely postpone House Amendment "A."

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

ROLL CALL NO. 520

YEA—Ainsworth, Allen, Andrews, Beaulieu, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Daggett, Diamond, Erwin, Gauvreau, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Pouliot, Richard, Roberts, Roderick, Rotondi, Soucy, Soule, Stevens, Swazey, Tammara, Telow, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Brown, D.N.; Cahill, Callahan, Carrier, Carroll, G.A.; Conary, Crowley, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Kiesman, Lebowitz, Lehoux, MacBride, Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McColister, Michael, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Perry, Pines, Racine, Randall, Reeves, J.W.; Ridley, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Strout, Walker, Wentworth, Willey, Zirnkilton.

ABSENT—Baker, Connors, Curtis, Gwadosky, Joyce, Livesay, McPherson, Michael, Reeves,

P.; Robinson, Rolde, Seavey, Webster, Weymouth.

77 having voted in the affirmative and 60 in the negative, with 14 being absent, the motion to indefinitely postpone House Amendment "A" did prevail.

Thereupon, the New Draft was passed to be engrossed as amended by House Amendments "B" and "C" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. McColister of Canton, Recessed until the sound of the gong.

After Recess

1:45 p.m.

The House was called to order by the Speaker.

The following papers were taken up out of order by unanimous consent:

Paper from the Senate Non-Concurrent Matter

Bill "An Act to Revise Certain Portions of the Tax Laws Relative to Income Tax Conformity, Sales Taxes, Real Estate Transfer Taxes and Cigarette Taxes and to Increase Revenue Collections" (H. P. 1899) (L. D. 2495) which was passed to be engrossed as amended by House Amendments "B" (H-767) and "C" (H-768) in the House on September 11, 1984.

Came from the Senate passed to be engrossed as amended by House Amendment "B" (H-767) in non-concurrence.

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

Mrs. MITCHELL: Mr. Speaker, I move that the House recede and concur.

Representative Higgins of Scarborough requested a roll call on the motion to recede and concur.

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

ROLL CALL NO. 521

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carter, Connolly, Cote, Cox, Crouse, Diamond, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Mitchell, E.H.; Mitchell, J.; Nelson, Norton, Paul, Richard, Rotondi, Soucy, Soule, Stevens, Swazey, Tammara, Theriault, Thompson, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Callahan, Carrier, Carroll, G.A.; Cashman, Chonko, Clark, Conary, Crowley, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Higgins, L.M.; Hobbins, Holloway, Ingraham, Jackson, Jacques, Kane, Kiesman, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, MacBride, Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McColister, Michael, Mills, Murphy, E.M.; Murphy, T.W.; Murray, Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Ridley, Roberts, Robinson, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Stevenson, Stover, Strout, Telow, Tuttle, Walker, Wentworth, Willey, Zirnkilton.

ABSENT—Cahill, Connors, Cooper, Curtis, Dudley, Gwadosky, Jalbert, McPherson, Michael, Moholland, Nadeau, Reeves, P.; Rolde, Seavey, Sproul, Vose, Webster, Weymouth.

55 having voted in the affirmative and 78 in the negative, with 18 being absent, the motion to recede and concur did not prevail.

On motion of Mr. Martin of Eagle Lake, recessed until the sound of the gong.

After Recess

2:45 p.m.

The House was called to order by the

Speaker.

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

Mr. KANE: Mr. Speaker, I move that the House reconsider its action whereby we failed to recede and concur.

The SPEAKER: The gentleman from South Portland, Mr. Kane, moves that we reconsider our action whereby this Body failed to recede and concur on An Act to Revise Certain Portions of the Tax Laws Relative to Income Tax Conformity, Sales Taxes, Real Estate Transfer Taxes and Cigarette Taxes and to Increase Revenue Collections (H. P. 1899) (L. D. 2495).

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will defeat the present motion so we can go on to adhere to our previous motion.

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

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I would just like to go over a couple of the points that have been of concern to most of the people who have objected to the cigarette provision, that I think has been the biggest obstacle to the acceptance of this bill.

In talking with members in the hall during the lunch break, there was concern over the arguments made in favor of or against the item that deals with the 8 cent federal excise tax on cigarettes. I would like to just state on the Record and clarify for you the position that we have in this corner and the position of the Governor as to what will happen with that law a year from now when the sunset provision takes effect.

As I stated this morning, on October 1 of 1985, that 8 cent tax that the federal government put in place in 1982 will sunset. That is the federal law; it's on the books now. There have been attempts to remove that sunset provision, to extend that tax beyond October 1, 1985. They have been rejected in Committee. In fact, some gestures have been made toward the proponents of removal of that sunset that have been very accommodating. They have given them the ability to recoup that 8 cent tax that was applied in 1982 as kind of a recognition of the commitment they have made. But again, the law says now that on October 1, 1985, the federal tax is going to drop back 8 cents.

We want to take advantage of that. We want to redirect—that's the word we've been using—redirect that 8 cents to the state coffers, and it may be a euphemism for anything you would like, but the fact of the matter is, if we don't claim that 8 cents, the tobacco companies are going to take it. The cost of a pack of cigarettes isn't going to drop by 8 cents on October 1, 1985, they're just going to have 8 cents more per pack.

By doing so we are acknowledging several things, the fact that the Reagan Administration, when they promoted this in 1982, acknowledged that this would be a way for the states to take advantage of a revenue source that would not be available to them immediately, but this was supposedly part of the grand scheme called New Federalism.

It's important to recognize that we are not alone in taking advantage of that, that Maine, New Hampshire, Vermont and other states in New England are leading the effort to redirect that income. But should that not happen, that is a possibility and nobody is ignoring that, should that sunset provision be repealed, the concern becomes, what happens? Will we have an 8 cent increase in the cigarette tax going in place on Maine people? Well, I can assure you, and I have the Governor's Office behind me on this, that this Legislature will not in any way let that happen. We will come back in here, the Governor will bring us back in here if we are not in session, and we will find another way to

come up with that \$9 million the first year and that \$12 million the second year that we need so badly for this education program.

It is nobody's intent to raise cigarettes a penny more than what they are now, and if you go along with this program, if you accept the motion to reconsider and allow us to recede and concur, you will see that. I give you my word as a legislator, and I know I speak for the Governor on this, that we will, indeed, be back here should something happen in Washington that complicates this.

I ask you to support the motion to reconsider so we can get on to the motion to recede and concur.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Diamond has put my argument very, very nicely, and I thank him.

My amendment does absolutely nothing but what Mr. Diamond has said he and the Governor agree with, so I cannot see why we cannot today be honest with the people and pass the amendment that we're discussing.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I think this bill, this Education Bill, is so very, very important to the State of Maine, to all of our teachers, to the education system, the whole bit, that I frankly don't care whether that cigarette tax over there is sunsetted or not. I am fully prepared right now to fund this package by voting for the 8 cent increase in tax, not caring, right up front. I am willing to go on Record myself and say that I think it is important enough right here and now to vote this package and for the funding and what difference does it make whether that thing is sunsetted or not.

I realize that it has been said that it is a redirection of funds and so on—okay, so be it, and if that be the case, under the present law that it is going to sunset, yes that is what it will be. However, as far as I am concerned, it doesn't make a bit of difference.

I hope that you will reconsider this.

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

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I sort of regret that the gentleman from Bangor, Mr. Diamond, felt compelled to harangue us one more time with crystal ball predictions about what future Congressional action may or may not be. We have been arguing about this day after day, what Congress will do or won't do and really none of us know. We can just make up our minds on which guess we prefer and that is the absolute best we can do.

If it seems like to some of you that I am changing my vote, it is because I am changing my vote. At this juncture in the parliamentary process, I think Mr. Vose has a good suggestion, that the only thing we can do, the people in my position who have been trying to put on Representative McCollister's amendment or offer some other tax rather than the cigarette tax, which we think has been hit a little hard lately, three times in a year is a bit much I think, but at this point there are no other alternatives. The only alternative I think, and I have tried to go down to the other body and see how many supporters we had down there, the only other alternative I think, if we don't move to reconsider, is to have it go down there and the bill is going to be dead. We are not only all going to go home and look bad but we are all going to go home and really genuinely disappoint all of our constituents, whether they are school children, whether they are teachers or whether they are parents. We came up here for something serious; we ought not to just let it dissipate in a squabble.

I am pretty sure, God willing, that I will be back here next year and I think we will all have a whack at revising this package that we are

going to use to fund this educational reform bill. I don't think it is a pretty package at all. I really don't think it is a package that any of us, whether we are in the Administration or the Legislature, can be proud of. It is an unholy mess in my book, but at this juncture I don't think we have any alternatives and I hope you will support the motion to reconsider.

Representative Higgins of Portland requested a roll call on the motion to reconsider whereby the House failed to recede and concur.

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

ROLL CALL NO. 522

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Carter, Chonko, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Erwin, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Masterton, Matthews, K.L.; Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Randall, Reeves, P.; Richard, Roberts, Rolde, Rotondi, Soucy, Soule, Stevens, Swazey, Tammaro, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Brown, D.N.; Cahill, Callahan, Carrier, Cashman, Clark, Conary, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gauvreau, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Kiesman, Lebowitz, Lehoux, Livesay, MacBride, Martin, H.C.; Masterman, Maybury, McCollister, Michaud, Mills, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pouliot, Racine, Reeves, J.W.; Ridley, Robinson, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Strout, Telow, Walker, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Connors, Curtis, Daggett, Dudley, Gwadosky, McPherson, Michael, Pines, Seavey, Webster.

79 having voted in the affirmative and 62 in the negative, with 10 being absent, the motion to reconsider did prevail.

Representative Mitchell of Vassalboro requested a roll call on the motion to recede and concur.

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

ROLL CALL NO. 523

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carter, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Erwin, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Matthews, K.L.; Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paul, Perry, Randall, Reeves, P.; Richard, Roberts, Rolde, Rotondi, Soucy, Soule, Stevens, Swazey, Tammaro, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Brown, D.N.; Cahill, Callahan, Carrier, Carroll, G.A.; Cashman, Chonko, Clark, Conary, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gauvreau, Greenlaw, H.C.; Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Kiesman, Lebowitz, Lehoux, Livesay, MacBride, Martin, H.C.; Masterman, Masterton, Maybury, McCollister, Michaud, Mills, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Pines, Pouliot, Racine, Reeves, J.W.; Ridley, Robinson, Roderick, Salsbury, Scarpino, Sher-

burne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Strout, Telow, Walker, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Connors, Curtis, Daggett, Dudley, Gwadosky, McPherson, Michael, Seavey, Webster.

75 having voted in the affirmative and 67 in the negative, with 9 being absent, the motion to recede and concur did prevail.

The Bill was passed to be engrossed as amended by House Amendment "B" (H-767) in concurrence.

Papers from the Senate Non-Concurrent Matter

Bill "An Act to Implement the Recommendations of the Commission on the Status of Education in Maine" (H. P. 1895) (L. D. 2492) which was passed to be engrossed as amended by House Amendments "D" (H-755), "E" (H-757) and "J" (H-763) in the House on September 10, 1984.

Came from the Senate passed to be engrossed as amended by House Amendments "E" (H-757) and "J" (H-763) in non-concurrence.

On motion of Mr. Crowley of Stockton Springs, the House voted to recede.

The same gentleman moved indefinite postponement of House Amendment "D" in concurrence.

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

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, I want to thank those who supported the effort to put the higher educational vocational-technical institutes in a higher education posture. Maybe next time. To challenge the other body would be an exercise of futility.

I would like to add one more thought to it. There are three ways to encourage industry to stay in Maine or to move out of Maine, and the cost of energy and the cost of transportation are two costs that we cannot control in Maine because we are always going to have high costs of energy that will not attract industry. We are always going to have a high cost of transportation, but there is one area that we do have a chance to be better and attract industry and that is by having a higher quality labor force. I think that is exactly what these VTI's can do for us some day, if we ever get around to getting them out of the woods where they can breathe like a higher education institute.

Whereupon, House Amendment "D" was indefinitely postponed in concurrence.

Mr. Higgins of Portland offered House Amendment "L" and moved its adoption.

House Amendment "L" (H-769) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: This amendment combines the recommendations of the Commission on the Status of Education in Maine, which is the principal bill that this amendment is being attached to, and the corresponding tax measures that we have just passed.

Mr. Moholland of Princeton offered House Amendment "A" to House Amendment "L" and moved its adoption.

House Amendment "A" (H-771) to House Amendment "L" (H-769) was read by the Clerk and adopted.

Representative Higgins of Scarborough requested a roll call on the motion to adopt House Amendment "L" as amended by House Amendment "A" thereto.

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

ROLL CALL NO. 524

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bell, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Clark, Con-

nolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Dudley, Erwin, Gauvreau, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Locke, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Randall, Richard, Ridley, Roberts, Roderick, Rolde, Rotondi, Smith, C.B.; Smith, C.W.; Soucy, Soule, Stevens, Strout, Swazey, Tammara, Telow, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bonney, Brown, D.N.; Cahill, Callahan, Conary, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Lebowitz, Leloux, Livesay, Masterman, Masterton, Michaud, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pines, Racine, Reeves, J.W.; Robinson, Salsbury, Scarpino, Sherburne, Small, Sproul, Stevenson, Stover, Walker, Wentworth, Weymouth, Willey, Zirkil-ton.

ABSENT—Chonko, Connors, Curtis, Daggett, Gwadosky, Kane, Lisnik, McPherson, Michael, Reeves, P.; Seavey, Webster.

94 having voted in the affirmative and 45 in the negative, with 12 being absent, the motion to adopt House Amendment "L" as amended by House Amendment "A" thereto did prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendments "E" (H-757), "J" (H-763), and House Amendment "L" (H-769) as amended by House Amendment "A" (H-771) thereto in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Messages and Documents

The following Communication: (S. P. 933)

The Senate of Maine
Augusta

September 7, 1984

Honorable Gerard P. Conley
President of the Senate
111th Legislature
Honorable John L. Martin
Speaker of the House
111th Legislature

Dear Mr. President and Mr. Speaker:

On September 7, 1984 one Bill was received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, this bill was referred to the Joint Standing Committee and ordered printed on September 7, 1984 as follows:

Appropriations and Financial Affairs

Bill "An Act Making Appropriations Changing Certain Provisions of the Law Necessary for the Proper Operation of State Government for the Fiscal Year Ending June 30, 1985," (Emergency) (Presented by Sen. Najarian of Cumberland) (Cosponsor: Rep. Carter of Winslow) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26) (S. P. 932) (L. D. 2490).

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

S/ EDWIN H. PERT

Clerk of the House

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

Was read and ordered placed on file in concurrence.

The following papers were taken up out of order by unanimous consent:

Reports of Committees

Ought to Pass

Pursuant to Joint Order (H. P. 1896)

Representative Higgins from the Committee on Taxation on Bill "An Act to Ensure the Pay-

ment of Taxes due on Watercraft" (H. P. 1897) (L. D. 2493) reporting "Ought to Pass"—Pursuant to Joint Order (H. P. 1896).

Report was read and accepted and the Bill read once.

Under suspension of the rules the Bill was read the second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

Non-Concurrent Matter

Bill "An Act to Ensure the Payment of Taxes due on Watercraft" (H. P. 1897) (L. D. 2493) which was Passed to be Engrossed in the House September 11, 1984.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S-447) in non-concurrence.

The House voted to recede and concur.

Passed to Be Enacted

An Act to Ensure the Payment of Taxes due on Watercraft (H. P. 1897) (L. D. 2493) (S. "A" S-447).

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, I would like to pose a question through the Chair. Before we pass this to be enacted, I kind of lost track of this particular one, just exactly what does this do? Is this the decal bill?

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

The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, in response to his question, yes.

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

By unanimous consent, ordered sent forthwith to the Senate.

Passed to Be Enacted

An Act to Implement the Recommendations of the Commission on the Status of Education in Maine (H. P. 1895) (L. D. 2492) (H. "E" H-757, H. "J" H-763, and House Amendment "L" H-769 as amended by House Amendment "A" H-771 thereto).

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

Consent Calendar

First Day

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

(H. P. 1886) (L. D. 2486) Bill "An Act Making Appropriations for Educational Purposes and to Adjust Appropriations for State Government for the Fiscal Year Ending June 30, 1985"—Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-772).

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Paper passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

(Off Record Remarks)

Orders

On motion of Representative Carter of Wins-

low, the following Joint Resolution: (H. P. 1900) (Cosponsors: Speaker Martin of Eagle Lake, Senators Conley of Cumberland, and Perkins of Hancock)

JOINT RESOLUTION IN HONOR OF THE
HONORABLE LOUIS JALBERT
OF LEWISTON

WHEREAS, Louis Jalbert has served as a member of the Maine House of Representatives for 2,212 legislative days, longer than any other person in the 164-year history of the Great State of Maine; and

WHEREAS, this historic record of longevity and service by the Dean of our House is surpassed by only one person in the entire nation, an achievement Mr. "D" credits to his constant reliance upon his helpmate and very lovely wife, Yvonne; and

WHEREAS, on December 5, 1983, Louis Jalbert received national honors from the Council of State Governments for his unprecedented service to the people of Lewiston and the State of Maine; and

WHEREAS, as the champion of vocational education, Louis Jalbert pioneered the educational concept that led to the establishment of 25 regional vocational centers and 6 vocational-technical institutes, that earned him the title of "Father of Vocational Education"; and

WHEREAS, Louis Jalbert, through his dogged determination, common sense and articulate debate, has earned the respect and admiration of fellow legislators since his first session in 1945 as part of a 14-member Democratic minority in this body; and

WHEREAS, Louis Jalbert is a man who walked beside presidents, ambassadors and governors but could most often be found among his constituents; now, therefore, be it

RESOLVED: That We, the Members of the 111th Maine Legislature, now assembled in Third Special Session, join at this time to honor and pay tribute to the Honorable Louis Jalbert of Lewiston and express to him our heartfelt affection and appreciation for his unparalleled record of legislative service to the people of Lewiston, Androscoggin County and the State of Maine, and to wish him well in all his future endeavors; and be it further

RESOLVED: That a suitable copy of this Joint Resolution be presented to Representative Louis Jalbert in lasting token of our esteem and gratitude.

Was read and adopted and sent up for concurrence.

Whereupon, Representative Jalbert was escorted to the rostrum by the Acting Sergeant-at-Arms, amidst applause, the members rising.

The SPEAKER: First, Louis, on behalf of the members of the House we have a little gavel to give you in addition to the Order because you keep asking about my broken gavels. This one reads: "Louis Jalbert, Mr. Democrat, Maine House of Representatives, 1945-1984."

Louis, I will let you speak from here. I understand you have a few diplomas to hand out? Is that just a rumor or is that true?

Mr. JALBERT: True. I have been waiting a long time for this, you know. This is one time I want to tell you something—I was interviewed after lunch by Channel 13 and I said, I helped John a little bit on some rules but I want to tell you something right now, we went out to lunch for one hour, usually it is two or three hours—now you come back here, set up your equipment because in about 20 minutes we are going to be called back into session, we are going to play under John Martin's rules. If anybody beefs and wants to get up to set up an amendment or squawk, he won't even see them. He is completely oblivious when he doesn't want to recognize you, to everybody. I have been a victim of it for years. If he sees me around the hall here and I am against him, boom, the bell stops ringing, first call of absentees, second call, boom, that is the end of it. If I am in the Finance Office and he has been ringing that bell for ten minutes and I am with him, the bell keeps on

ringing, I very slowly leave the Finance Office, come over here, take my seat and the minute I take my seat, bam, the roll is open, that is the way the game is played.

John Martin, I stated tonight, like myself sometimes is a little bit arrogant but I want to tell you one thing right now, pound for pound, I would like to see a committee named of star studded people who know legislative matters to choose the best Speaker in the United States of America and this guy would win hands down. I nominated him every time he has been Speaker and I will nominate you under by breath from 39 Orestis Way, you can make up your mind to that, and I have wanted to kill him a thousand times.

Another young gentleman I want to speak about before I go into my diploma situation and it is this young man who read the Joint Resolution, he wrote it. He was a young protege of mine who I found washing dishes at the University of Maine in 1953 and became my co-chairman for the first Democratic pre-convention conference before the famous 1954 convention, which I was chairman of, which elected Ed Muskie. This boy here should be made Speaker if it were possible. It is impossible because of the Constitution. There isn't a member in this House, woman or man, who can get into this office and ask him for something and he has it done before you ask him.

He (the Speaker), on the other hand, is different. I went in yesterday to see him, I am standing there and I said, "John, can I talk to you?" He said, "Yes, but I am not going to do what you want to do and I know what you want to do." He told me what I wanted to do—he told me what I was going to ask him! I never said a word, I turned around—mental kill 1,001.

These are not necessarily in order, but these are people who are here who have sat next to me—to show you sometimes, as much as I love him, he can be a little bit devious, about 8 or 6 years ago I came down the aisle, I took my seat, 78, who is sitting there but some girl. So I said, how are you and this and that. She said, "Fine, my name is Beaulieu, I am from Portland." I said, "Nice to meet you, that is great." Three days later I found out she was from Portland all right, via Eagle Lake; in other words, you find out what he says, tell me. We straightened that in short order because I got after her, so we both got after him and we have been after him ever since.

Edie, I would like to give you your diploma for your years of service and patience toward me. She has fixed my desk up, she has done everything. She has taken my language and, believe me, sometimes I am not necessarily visiting the Pope when I decide to take off, particularly—

The SPEAKER: You might as well tell them that story of yesterday, Louis.

Mr. JALBERT: Let me tell you just what it was. Yesterday, I met a couple of friends of mine and Sunday, of course, His Holiness was in Quebec. Just to show you the power of these two friends of mine, very good friends from Lewiston, were over there looking at the Pope. Two men were behind them, so finally one guy said, "listen, there is Johnny Martin from Eagle Lake. Who the hell is that guy wearing the white robe?" I will tell you one thing right now, two weeks from now if he takes a notion to go over and visit the queen, he would be right in that hack.

Edie, I am going to bring this to you myself. This is your second deploma.

The SPEAKER: Could the Clerk read the diploma?

Mr. JALBERT: Yes, please.

The CLERK: This diploma is from the Louis Jalbert School of Legislative Knowledge. This certifies that Edith Beaulieu has satisfactorily completed the course of study prescribed for graduation and is therefore entitled to this diploma, given at Augusta, Maine this 11th day of September, 1984. Signed, Louis Jalbert, Mr. "D."

(applause)

Mr. JALBERT: Also a man who sat next to me and he has pestered me for a diploma ever since he took a job with the man on the second floor. Some of you knew him; some of you didn't, he was a great guy, he is from Ellsworth, he served well, a little stubborn but he did the right thing the right way, and the right way is what it is in his office, Harvey DeVane. Is Harvey here? He is not here but we will see that he gets it.

The next diploma is for another great man, the great Severin Beliveau. Believe me, sitting with him for six months, I can never go anywhere but straight upstairs. I kept him in his seat for about two months so I said to him—a bummer, the bummer of bummer—figuring that he would get his head knocked off, you see, he had never gotten up before so I was sitting in the seat, and I am very friendly with his family particularly friendly with his father, who didn't mind telling me where to get off. Listen, he won 130 something to 4, I couldn't keep that bum in his seat for the rest of the session. As a matter of fact, I thought he was taking my seat over.

Severin, are you here?

The SPEAKER: I think he went home after the vote.

Mr. JALBERT: He has forbidden me to tell this story but I could tell you a beauty if he would only allow me to. It is the best story I have ever heard in my life. There is nothing wrong with it, it is an absolute beauty.

The SPEAKER: Go to the next one.

Mr. JALBERT: You don't want me to.

The next one is given to a man that was the left end of the bookcase. He sat next to me for six months. He was looking to get downstairs so he sat across the way from me, grabbed an aisle seat, that is the first step to graduate downstairs, if you have got it, and so he wound up on the Appropriations Room. I had Room 228 built, that is why the phone is down in the corner. Even when I was House Chairman, I never sat anywhere but in that corner. Edward sat in the other corner ever since he was a member, that is why it is called the bookend topic.

I know his family very, very well. I call up Sunday morning and I always get the same answer from his mother: "Oh, the poor darling boy just went to Mass"—Sunday after Sunday. I have been thinking about it the last few years and I knew exactly where he was. I never knew up until then that they had Mass at the Elks Club in Bangor. Edward and I put on such an act, as they said, that people to this day swear that we rehearsed the thing. We never did, it just fell into place.

I want to tell you one thing right now, make no mistake about this, Edward Kelleher—it has been said here about others who care for the state as I do, their county as I do, and their city as I do—he is fair, he is square, he can get tough, but I will tell you this right now, I have never had one word of discord with my friend, Edward Kelleher. He is a wonderful boy. Edward, do you think you got time to step down here and do me the honor of receiving this diploma?

Mr. KELLEHER: Sure.

Mr. Kelleher was escorted to the rostrum by the Acting Sergeant-at-Arms, amidst applause, the audience rising.

Mr. JALBERT: Edward, you know when I got through talking to his mother, of course, the sarg comes on. He says, "He will be back, Louis, he will call you the minute he gets in the house." That's two weeks later.

Edward, you know this without my telling you. I will put it this way here—we both used to like to make a little bet once in awhile, I don't do it too often unless the occasion arises, but one thing I will say to you, we will both miss one another.

Mr. KELLEHER: Oh, and the House as well. Thank you and good luck to you, Louis.

Mr. JALBERT: I will close and I will be very

brief. Thank you very much, Mr. Speaker, for the time. If you have noticed, I haven't given you too much ribbing because you did something for me today and I love you for it. I don't know what you are going to do tomorrow, I will be gone, but I want to tell you this right now, to say never will I come back here would be a lie. I really did not want to run. I filed five minutes before time. I certainly did not want a recount and I was not going to insult my friend, the Governor, by asking the court to rule over him, a body that he appoints, but I guarantee you that two years from now I will be walking down that aisle and whomever is sitting in Seat 78, I suggest that they just move over because I am going to take over. I will be back!!

Thereupon, Mr. Jalburt was escorted back to his seat by the Acting Sergeant-at-Arms amidst applause, the audience rising.

The SPEAKER: The Chair would like to recognize a person who was in the back through all of this and I am sure that many times she wondered why he was in it so long, Yvonne Jalburt. (applause)

I am sure that Yvonne will probably finally get a vacation and they might go to Pemaquid. I have heard that story more times now. For those of you who may not have known, I served two years with Louis on Appropriations, and they were interesting years. Those were the real days when—I want to tell perhaps a couple of stories, we have a minute here.

I have been in, as you know, for 20 years and there are some stories which very often are not told and perhaps as time goes on, after the seven years, which I believe is the number of years necessary if a crime has been committed before you can be arrested for it, you can tell some of these things.

There were a couple of stories. I will tell you just two from the 102nd Legislature, which was my first term at the age of 22 or 23, and I sat in Seat 11, Jim's seat, prior to the House being two, at that time it was actually divided in four, Jerry Conley was in first, I was in the second district, we were monitors and I know that I have told the story before about counting, but that was really an important job then. The monitors decided the votes, decided the issues. You know how well I count? Remember, you didn't get a roll call unless one-fifth, same rule as we have now, asked for the roll call. It was always assumed that 151 were present, so you needed to have one-fifth of 151. If you missed a few, those were the breaks, there was no roll call, so there were not roll calls very often. Then, of course, we were in the majority, 78 to 73 and I thought that was fairly democratic, but then I came back in the minority. I had heard Louis complain about the minority and the minority being in the minority for so long, and then I was in the minority. Then I found out what being in the minority was like. We went to 53 out of 151 and in that period Ken Curtis was elected Governor. Remember, we needed 51 votes to hold a veto for our Governor, and so the most difficult time was—Neil Rolde used to work for Ken Curtis at that time and his job was liaison with the Legislature. I was a member of the State Government Committee at the time and trying to get all of our people here on vetoes was just an impossibility. So Louie's tactic or one of the tactics that was used, devised by him or whomever, I don't know, was to talk until the votes got here. I won't tell you what veto it was because it is probably better left unsaid but it went for an hour and a half, the debate. Louis carried about four-fifths of it and some others finally joined in.

I think so often we look at what it is now and we tend to forget the way it was. I know sometimes you have problems with me, often, but it really would be amazing if you could see the change in the Maine Legislature in the last 20 years. I think a lot of things, in my opinion, have been good and you have been part of it.

The other thing which I think is worth

remembering—some of you know Jim Erwin, Sr. Jim Erwin sat right behind me and this is when we had a number of people who were all Republican candidates for Governor in the first session of the 102nd. The Democrats had Ken Curtis, of course, so we didn't have to give speeches, but there were about five or six Republicans all running for governor, all of them in the House of Representatives. Now you can imagine what that was like because they were all giving speeches for newspapers rather than for the House of Representatives. On one occasion Jim got up and gave a speech. What he didn't know was that I had gotten the record from the Law Library, I can't remember what it was, I can but I won't tell you, it had to do with federal judges, and so I got up and made some comment and I will never forget the words he came back with: "Be very careful of a young man with a book." I have never forgotten those words and the last time I saw him he said he had never forgotten them either.

The following papers were taken up out of order by unanimous consent:

Messages and Documents

The following Communication:

State of Maine
House of Representatives
Augusta 04333

September 10, 1984

Honorable John L. Martin

Speaker of the House

111th Legislature

Augusta, Maine 04333

Dear Mr. Speaker:

On September 7, 1984 Governor Joseph E. Brennan returned to the Clerk of the House L. D. 992, "An Act to Establish a Right of Action for Wrongful Imprisonment". September 7th represented the fourth calendar day of the Third Special Session of the 111th Maine Legislature.

In a September 21, 1979 (file 17-170) follow-up of his opinion dated July 10, 1979, Maine Attorney General Richard Cohen said "first, there is the question of whether the Governor must present back vetoed bills within three calendar or three legislative days. The general rule is that calendar days are counted. Anno. 54 A.L.R. 339 (1928). Hence, the Governor must present bills back to the Legislature within three calendar days of the beginning of the session, or they will have the same effect as if he had signed them on the third day."

Pursuant to the provisions of that opinion, I am forwarding H.P. 761, L. D. 992, to Secretary of State, Rodney S. Quinn.

Sincerely,

S/EDWIN H. PERT

Clerk of the House

Was read and ordered placed on file.

The following Communication:

State of Maine
Department of State
State House Station 101
Augusta, Maine 04333
Division of Public Administration

September 11, 1984

Honorable Edwin H. Pert

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

I regret to inform you that, upon the oral advice of the Attorney General's Office, I am unable to order that L. D. 992, "AN ACT to Establish a Right of Action for Wrongful Imprisonment", be given an official public law chapter designation.

You may be aware of the opinion given by Attorney General Tierney to Governor Brennan indicating that he properly vetoed L. D. 992. I am awaiting a formal communication from the Attorney General advising me what disposition should be made of the L. D. I expect to hear from him tomorrow and will inform you imme-

diately of his advice.

Sincerely,

S/JAMES S. HENDERSON

Deputy Secretary of State

Was read and ordered placed on file.

The following paper was taken up out of order by unanimous consent:

Orders

On motion of Speaker Martin of Eagle Lake, the following Order:

HOUSE ORDER PROPOUNDING

QUESTIONS TO THE

SUPREME JUDICIAL COURT

Whereas, it appears to the House of Representatives of the 111th Legislature that the following are important questions of law and that the occasion is a solemn one; and

Whereas, the Constitution of Maine, Article VI, Section 3 provides for the Justices of the Supreme Judicial Court to render their opinion on these questions; and

Whereas, the Legislature, at the Second Regular Session enacted Legislative Document No. 992 "AN ACT to Establish a Right of Action for Wrongful Imprisonment" and on May 7, 1984, presented it to the Governor for approval pursuant to the Constitution of Maine, Article IV, Part 3, Section 2; and

Whereas, the Legislature then adjourned on April 25, 1984, and at the time of adjournment the Governor had not acted on that Legislation; and

Whereas, on September 4, 1984 the Legislature convened in Special Session; and

Whereas, on September 7, 1984, the Governor returned that bill (L. D. 992) to the House of Representatives, its House of origin, together with his objections; and

Whereas, the Constitution of Maine, Article IV, Part 3, Section 2 provides as follows:

"If the bill or resolution shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect as if he had signed it unless the Legislature by their adjournment prevent its return, in which case it shall have such force and effect, unless returned within three days after the next meeting of the same Legislature which enacted the bill or resolution, if there is no such next meeting of the Legislature which enacted the bill or resolution, the bill or resolution shall not be a law."; and

Whereas, in an opinion of the Justices, 437 A2d 597, 604 (1981) the Justices answered:

"We are of opinion, however that Article IV, Part 3, Section 2 requires that the same Legislature must be continuously in session for three days before the period in which the Governor may act on the pending bill expires;" and

Whereas, on September 7, 1984, the Legislature had been in session for 4 calendar days since its convening; and

Whereas, the House of Representatives is presently in doubt as to whether the Governor's objections to Legislative Document No. 992 are properly before it; and

Whereas, it is important that the Legislature be informed as to whether that Legislative Document has become law or is properly before the Legislature for its consideration of the Governor's objections; and

Whereas, it is important that the Legislature be informed as to the answers to the important and serious questions hereinafter raised; now, therefore, be it

Ordered, that the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the House of Representatives, according to the provisions of the Constitution of Maine on its behalf, their opinion on the following questions; to wit:

Question No. 1: Did Legislative Document No. 992 properly become law on September 6, 1984 at 11:59 p.m., as it had not been returned by the Governor to the Legislature by

the end of the 3rd calendar day of the special session, as provided under the Constitution of Maine, Article IV, Part 3, Section 2?

Question No. 2: Are the Governor's objections to Legislative Document No. 992 properly before the House of Representatives for its consideration?

The Order was read.

Under suspension of House Rule 40, the Order was passed.

By unanimous consent, ordered sent forthwith to the Court.

Passed to Be Enacted Emergency Measure

An Act Making Appropriations and Changing Certain Provisions of the Law Necessary for the Proper Operation of State Government for the Fiscal year ending June 30, 1985. (S. P. 932) (L. D. 2490)

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

The SPEAKER: The Chair recognizes the gentleman from South Paris, Miss Bell.

Miss BELL: Mr. Speaker, Men and Women of the House: You may have noticed earlier in the week that this was a Divided Report Out of Appropriations. It was a 9 to 4 report. The bill came out in a yellow copy last Friday and it evolved through a Joint Order passed by this body.

The opposition to that by the Republican members was more for the process rather than the content of the entire bill, and just so that you know what is in this bill I will just read the different items that it includes: one is the funding of the salary increases for judicial employees; the second is to amend the Joint Select Committee on the Unorganized Territories; the amendment to the regional fuel tax agreement; the implementation and funding of the interim recommendations of the State Compensation Commission; an amendment to the telecommunications law; changes to the alcohol premium fund allocation; appropriations to the Secretary of State for June and November referendum elections; to provide a nonlapsing clause for the funds appropriated to the Workers' Compensation Commission and an amendment to the funding of the Offices of Energy Resources.

My discomfort came from including a number of different items which I felt affected a number of different committees and some substantive changes. Since the time this bill has been printed and on desks, I personally have had some time to talk with some of the different committees about what was in the bill.

I'm removing objections at this point and plan to vote for enactment but I just thought for your information, just so you are aware of what is in the bill, that was our purpose in bringing it to your attention.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act Making Appropriations for Educational Purposes and to Adjust Appropriations for State Government for the Fiscal Year Ending June 30, 1985 (H. P. 1886) (L. D. 2486) (C. "A" H-772)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters acted upon requiring Senate concurrence were ordered sent forthwith.

Petitions, Bills and Resolves Requiring Reference

Bill "An Act to Create a Special Commission

to Study the Implementation of Educational Reform" (Emergency) (H. P. 1901) (L. D. 2496) (Presented by Representative Locke of Sebec) (Cosponsor: Senator Hayes of Penobscot) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26)

Committee on Education suggested and ordered printed.

On motion of Representative Locke of Sebec, under suspension of the rules the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

The following paper was taken up out of order by unanimous consent:

Passed to Be Enacted Emergency Measure

An Act to Create a Special Commission to Study the Implementation of Educational Reform (H. P. 1901) (L. D. 2496)

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

By unanimous consent, ordered sent forthwith.

At this point, the Speaker appointed Representative Diamond of Bangor on the part of the House to Inform the Senate that the House had transacted all business before it and is ready to adjourn without day.

Subsequently, Representative Diamond reported that he had delivered the message with which he was charged.

The Chair appointed the following members on the part of the House to wait upon His Excellency, Governor Joseph E. Brennan, and inform him that the House has transacted all business before it and is ready to receive any communication that he may be pleased to make.

Representative CARTER of Winslow
Representative JALBERT of Lewiston
Representative KELLEHER of Bangor
Representative CHONKO of Topsham
Representative CONNOLLY of Portland
Representative LISNIK of Presque Isle
Representative SMITH of Mars Hill
Representative MASTERTON of Cape Elizabeth

Representative ARMSTRONG of Wilton
Representative BELL of Paris

Subsequently, Representative Carter reported that the Committee had delivered the message with which it was charged.

At this point, a message came from the Senate, borne by Senator Wood of York, informing the House that the Senate had transacted all business before it and is ready to adjourn without day.

At this point, His Excellency, Governor Joseph E. Brennan, entered the Hall of the House amid prolonged applause, the audience rising.

The SPEAKER: Before we begin, Representative Jalbert has a presentation to make to the Governor.

Mr. JALBERT: Governor, this is diploma day, and as you were one of my seatmates—even though he was a seatmate, he was a law partner of a very dear friend of mine. I remember he came to me and said, I've got a very good friend, Joe Brennan, who is going to be in the House. I said, I know Joe, I used to buy his hamburgers down at Pine Point. That's the truth. He says, you've got control of your side seat, I understand. I said, well, I've got some

control—John wasn't there then, but now I bow. He was a defense attorney then, and boy, when there was a bill that came out that might put someone in the can, you should have seen this guy yip. Now he has gone over there and everybody is going to go to jail.

Joseph, I'm not going to take up too much of your time. This is from two people, Yvonne and myself. Incidentally, we are trading the '84, we are buying another green car, and my wife, believe it or not, is the only person who ever put a sign on her car, and it's her car—she put two for him. She thinks the sun sets right on his head. She put two and bought a green car. Now, you know, I will be back in two years, but you told me several times that I owe her a little time, so I'll give it to her.

God love you. (Whereupon, Representative Jalbert presented Governor Brennan with a diploma)

GOVERNOR BRENNAN: First, in regard to this diploma, I want to say I would prefer a stipend. Actually, I am delighted to get the diploma now because some years from now I wouldn't qualify. We are going to have those tough school standards. The days of social promotion are over, so I am glad that I got in under the line. Thank you very, very much, Louie.

Mr. Speaker and Members of the House: I have come up tonight to thank you on behalf of over 200,000 school children, their parents and the citizens of this state.

A letter I received today from a parent from the Town of Alfred I think says it all. I'd just like to read a little excerpt

"Dear Governor: We have got a little girl, Christina, starting kindergarten tomorrow, and we are very glad she is starting out in Maine under a government which is planning for excellence in her education"

Yes, your actions of the past week mean that our young people are going to enjoy the benefit of better schools, better education and a lifetime of greater economic opportunity.

In just a few working days, you've taken strong action that will make our schools better; to challenge our students to reach higher standards of achievement is a great deal to accomplish in a short time and I am proud to be able to commend you. I know how hard many of you had to wrestle with these problems.

I followed your deliberations through a long working weekend, meeting with many of you at the Blaine House, and then again in the last two days. Your own study reflected the same careful deliberations we in the Administration gave to these questions, and I am pleased, obviously, to see the conclusions that you reached.

Yes, what we asked for at this very rostrum last Tuesday night is on my desk now, virtually intact. The children of Maine are the future of Maine, and I believe that together we have made that future a better one.

I want to thank Speaker Martin, Minority Floor Leader Linwood Higgins, John Diamond, Lee Davis for the help that you have given on this education package.

I'm also well aware that, barring some unexpected emergency, this is the last meeting of this Legislature. I want to say that I truly have enjoyed working with you. I know that you are anxious to return, but I would like to just take another minute of your time.

When the 112th Legislature convenes, as I have heard down in my office, many of you are not going to be here, and that includes certainly one member of this body who has been serving since before many of you were even born. Louis, I want to say as Governor, I am pleased to take official note of your leaving. I do want to congratulate you on your service to your constituents in Lewiston, to the people of Maine, to your many colleagues over the years in this Legislature.

Louie, you have not been perfect, only human. As one of our foremost experts on fi-

nances, there is no way to replace the background, the experience and the historical perspective which you have contributed to the budget and, indeed, to every issue that has come before this body.

And I do want to thank you for the advice and the support that I have received from you since the day 20 years ago when I first took my seat here in the House right next to you where Edie Beaulieu is now sitting.

Louis, when you leave here, a little of all of us will leave with you. Yes, the Maine House will never be the same. I did hear your remarks downstairs and, like MacArthur said, you shall return, and I believe you will. (Applause)

To my good friend, Eddie Kelleher, I want to say that we are going to miss you. We will miss your forceful and effective debating style and your ability to analyze budgets and issues with intelligence and compassion. Your leadership in this House is proof that you don't have to be a committee chairman to be influential, or a member of the leadership to be a leader.

I especially want to thank you, Eddie, for the help you have given my Administration over these past six years to get our programs enacted. There are none of these programs of any consequence that do not bear your fingerprints. Thank you very much, Eddie. (Applause)

To John Joyce, I'll miss your support and encouragement. In fact, I'm not sure I can come up here without knowing you are going to be present.

You have been somewhere nearby all of my life, from the street corners of Munjoy Hill to the third floor of the State House. And next January, the House will be a little emptier and a little quieter without you being here. Thank you very, very much, John. (Applause)

Well, in absentia, I also want to congratulate Libby Mitchell who, more than any other member of this Legislature, this education bill bears her stamp as vice chair of my special Commission on Education, as sponsor of the bill, as Majority Leader of the House. The reforms that have been enacted will be a lasting tribute to her effectiveness as a legislator, to her concern for the children of our state. This House is certainly going to miss Libby Mitchell. (Applause)

There are many, many others who will not be back, too many to mention, but to each of you, Democrats and Republicans alike, I want to thank you for the service you have given and the sacrifices you have made for your neighbors, for your communities, for the state. It truly has been a delight and a privilege to be able to work with you, and I don't think I have every experienced a special session that in my judgment was more effective on behalf of the people who are our best investments, the kids of this state.

Thank you very, very much.

Thereupon, Governor Brennan retired from the Hall of the House amid prolonged applause, the members rising.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Those of you who are up for election in November, I hope you all win whether you are Republican or Democrat; you are a lovely bunch of people.

I move that this House stand adjourned sine die.

The SPEAKER: The gentlewoman from Brunswick, Mrs. Martin, moves that the House adjourn without day. Is this the pleasure of the House?

The motion prevailed, and at 7:17 p.m., Eastern Daylight Saving Time, Tuesday, September 11, 1984, the Speaker declared the House adjourned without day.