

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Twelfth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

**December 5, 1984 - June 20, 1985**

**HOUSE**

Monday, April 1, 1985

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

Prayer by Representative Robert Murray of Bangor.

National Anthem by the John Bapst High School Band, Bangor.

Quorum called; was held.

The Journal of Friday, March 29, 1985 was read and approved.

**Papers from the Senate**

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for Construction of an Economic Development and Conference Center" (S.P. 421) (L.D. 1169)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

RESOLVE, Regarding the Administration of Environmental Laws (S.P. 422) (L.D. 1170)

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

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

Bill "An Act to Permit Voluntary Hospitalization of Adults under Guardianship" (S.P. 423) (L.D. 1171)

Bill "An Act Concerning the Use of Motor Vehicles in the Commission of Theft and Related Crimes" (S.P. 424) (L.D. 1172)

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

Were referred to the Committee on Judiciary in concurrence.

**Unanimous Ought Not To Pass**

Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Establish a Bounty on Coyote" (S.P. 178) (L.D. 496)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

**Unanimous Leave to Withdraw**

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act Relating to Fireworks" (S.P. 330) (L.D. 818)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

**Petitions, Bills and Resolves Requiring Reference**

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

**Business and Commerce**

Bill "An Act to Change the Manner in Which the State Seeks Assurance of Motorists' Financial Responsibility" (H.P. 838) (Presented by Representative BRANNIGAN of Portland) (Cosponsors: Senators TRAFTON of Androscoggin, CHALMERS of Knox and Representative MURRAY of Bangor)

(Ordered Printed.)

Sent up for concurrence.

**Tabled and Assigned**

Bill "An Act to Create a State Committee to Deal with Post-Secondary Vocational-technical Education" (H.P. 839) (Presented by Representative MacBRIDE of Presque Isle) (Cosponsors: Representatives GWADOSKY of Fairfield, COTE of Auburn and SMITH of Mars Hill)

The Committee on Education was suggested.

On motion of Representative Gwadosky of

Fairfield, tabled pending reference and tomorrow assigned.

**Education**

Bill "An Act to Promote Aviation and Aerospace Technology in Maine Schools" (H.P. 840) (Presented by Representative McGOWAN of Canaan) (Cosponsors: Senator PEARSON of Penobscot, Representatives CALLAHAN of Mechanic Falls and DAVIS of Monmouth)

(Ordered Printed.)

Sent up for concurrence.

**Judiciary**

Bill "An Act Relating to Retirement Compensation for Judges who Ceased to Serve Prior to December 1, 1984" (H.P. 841) (Presented by Representative DIAMOND of Bangor) (Cosponsors: Representatives LEBOWITZ of Bangor, BAKER of Orrington and Senator BALDACCI of Penobscot)

(Ordered Printed.)

Sent up for concurrence.

**Local and County Government**

Bill "An Act Requiring Impartial Summaries of Charter Amendments" (H.P. 842) (Presented by Representative MELENDY of Rockland) (Cosponsors: Representatives COTE of Auburn, SMITH of Island Falls and Seavey of Kennebunkport)

(Ordered Printed.)

Sent up for concurrence.

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

**Passed to Be Engrossed**

RESOLVE, Authorizing the York County Commissioners to Expend \$687,319 from Unappropriated Surplus for the Purpose of Building an Addition to the York County Jail (Emergency) (H.P. 844) (Presented by Representative RIDLEY of Shapleigh) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

**Petitions, Bills & Resolves Requiring Reference**

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

**Taxation**

Bill "An Act to Repeal the Sales Tax on Text Books and Require a Sales Tax on Certain Magazines" (H.P. 843) (Presented by Representative BOTT of Orono) (Cosponsors: Representative JACKSON of Harrison and Senator PEARSON of Penobscot)

Was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

**Study Report—Committee on Local and County Government**

Representative McHENRY from the Committee on Local and County Government to which was referred by the Legislative Council the Study Relative to Regional Planning Commissions have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Strengthen State-local Cooperation through Regional Councils" (H.P. 837) (L.D. 1181) be referred to this Committee for public hearing and printed pursuant to Joint Rule 19.

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

**Reports of Committees****Unanimous Ought Not to Pass**

Representative GWADOSKY from the Committee on State Government on Bill "An Act to Provide for Appointment of the Commissioner of Inland Fisheries and Wildlife from within the Department" (H.P. 334) (L.D. 449) reporting "Ought Not to Pass"

Representative HOLLOWAY from the Committee on Energy and Natural Resources on Bill "An Act to Regulate the Drilling of Wells" (H.P. 383) (L.D. 527) reporting "Ought Not to Pass"

Representative REEVES from the Committee on Legal Affairs on Bill "An Act to Repeal Requirement that Swimming Pools be Enclosed" (H.P. 299) (L.D. 388) reporting "Ought Not to Pass"

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

**Unanimous Leave to Withdraw**

Representative REEVES from the Committee on Legal Affairs on Bill "An Act Relating to the Number of Voting Booths Required in Maine Elections" (Emergency) (H.P. 133) (L.D. 158) reporting "Leave to Withdraw"

Representative REEVES from the Committee on Legal Affairs on Bill "An Act to Remove an Absolute Restriction on Law Enforcement Officials under the Liquor Laws" (H.P. 70) (L.D. 91) reporting "Leave to Withdraw"

Representative BOTT from the Committee on Legal Affairs on Bill "An Act to Prohibit the Sale of Intoxicating Liquor on State Election Days" (H.P. 114) (L.D. 139) reporting "Leave to Withdraw"

Representative MURPHY from the Committee on Legal Affairs on Bill "An Act Relating to the Location of Agency Liquor Stores" (H.P. 10) (L.D. 8) reporting "Leave to Withdraw"

Representative LAW from the Committee on Energy and Natural Resources on Bill "An Act to Establish an Experimental Test for Control of Black Flies" (H.P. 142) (L.D. 176) reporting "Leave to Withdraw"

Representative MITCHELL from the Committee on Marine Resources on Bill "An Act to Modify the Closed Period for the Taking of Lobsters" (H.P. 49) (L.D. 55) reporting "Leave to Withdraw"

Representative REEVES from the Committee on Legal Affairs on Bill "An Act to Provide for Uniform Polling Times" (H.P. 363) (L.D. 483) reporting "Leave to Withdraw"

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

**Ought to Pass in New Draft**

Representative PARADIS from the Committee on Utilities on Bill "An Act Relating to the Protection of Underground Facilities under the Public Utility Law" (H.P. 126) (L.D. 151) reporting "Ought to Pass" in New Draft (H.P. 835) (L.D. 1179)

Report was read and accepted, the New Draft read once and assigned for Second Reading tomorrow.

**Divided Report**

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Create a Nonresident Property Owner Fishing License" (H.P. 27) (L.D. 28)

Signed:

Sensors:

MATTHEWS of Kennebec

USHER of Cumberland

WEBSTER of Franklin

Representatives:

JACQUES of Waterville

ERWIN of Rumford

CLARK of Millinocket

ROTONDI of Athens  
DUFFY of Bangor  
SMITH of Island Falls

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

Signed:

Representatives:

WALKER of Norway  
CONNERS of Franklin  
GREENLAW of Standish  
WEYMOUTH of West Gardiner

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker. Men and Women of the House: I move we accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker. Ladies and Gentlemen of the House: I rise this morning in opposition to the Majority Report, "Ought Not to Pass." This is not the first time that this L.D. has been in this body in the last few years. I would like to explain what the bill does and to give my reasons for introducing this piece of legislation.

What this L.D. does is create a new non-resident fishing license, a new classification, that classification being a non-resident property owner, a non-resident who pays property taxes in a municipality in any one of the several towns in this state. I am not discussing personal property taxes but real estate property taxes. The fee for the license is just double what your resident license is. For example, the fee for this year is \$13.00, it would be \$26.00 for this new license.

The reasons I introduced this piece of legislation are many. The first one is that we should encourage these sunny weather friends of ours, who happen to own property here, plus maybe real estate in other areas of the country, to utilize our facilities, to utilize our lakes, our streams, things of that nature. We encourage these people to utilize these facilities, we encourage them to buy licenses. The current rate of \$39.00 for a non-resident season fishing license is discouraging these same people who own real estate in this state from acquiring those licenses to use. You must wonder how I come to make that statement. Prior to last June, I was a sales agent, non-resident license sales agent for the Department of Inland Fisheries and Wildlife. I saw in the 11 years that I was an agent for the Department, selling those licenses, as the prices increased, there was a decline in sales of those licenses. The biggest reason was the price. In discussions with many of these people who refuse to buy licenses as years went on as prices increased, they felt it highly unfair, they being property taxpayers in these communities, particularly in the communities that I represented of being asked to contribute those number of dollars for licenses to fish maybe 8 weeks 9 weeks of the season. If you think about it it might be correct. I know that there are other people on the other side of this issue, who think that if these people can afford a place here in Maine and can afford a place in Florida, Connecticut, wherever the case may be, they certainly can afford to pay the \$39.00. Well, I am not going to dispute that fact. I am sure they can afford the \$39.00 or the \$40 or the \$41 as they go up every year for the next two years. The point is, is that these people are making a contribution to the communities in the state. They are making a contribution to the state. They just feel, the ones that I have discussed this with, that the contributions that they are making, that they are being dealt with unfairly through high prices for licenses; therefore, they are not purchasing these licenses and the Department of Inland Fisheries and Wildlife is losing revenue due to this fact. I think all one needs

to do is go to the Department and take a look at the decline in the number of non-resident season fishing licenses over the last five or six years. I say the decline can be directly attributed to the non-resident property owner, to those people that might come here and buy a season license, the other non-residents, might be in a campground, things of this nature, they certainly don't object to it and they don't expect to have a reduction in their fishing license. But I know that there are people, as I indicated earlier, that feel that if people can afford two residences, they can afford the price of the license. Well, I don't dispute that.

One thing that I might mention too is that several of those same people that are coming back to the state, which might be non-resident property owners, were probably born and raised in this state but due to economic conditions, due to the lack of jobs, they have had to move to other states, particularly the southern states of Connecticut, New Jersey, Rhode Island and those areas to get employment so they can satisfy their lifestyles, encourage them to be up to snuff so to speak. Therefore, I don't think we are giving anything here that is not due. I think that this piece of legislation would certainly encourage those people that I speak of in buying licenses; therefore, increasing the revenue for the Department of Inland Fisheries and Wildlife and assist them in their dilemma hopefully in the next few years.

I would hope that you members of the House would reject the Majority Report, so that we could accept the Minority Report and move this on its way.

Mr. Speaker, I ask for a division.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Bonney.

Representative BONNEY: Mr. Speaker. Ladies and Gentlemen of the House: This is one bill that upsets me. The company that I retired from has a wonderful president who owns a summer place here in Maine. He has provided over 1,000 jobs in this State, which we need, and has to pay an out of state fishing license. I think the state needs these jobs. People like him get irritated over a small thing like a fishing license and just won't pay for it. If he has provided 1,000 jobs, owns property here, a summer cottage, I think he should be entitled to some kind of a deal on a fishing license.

I also have two summer neighbors I would like to speak about. One of them is a policeman in the State of Massachusetts. Now here is a man, an officer of the law, that will not pay that price, and goes fishing and takes the chance. I have another friend who comes to Maine for just two weeks in the summer, all the way from Texas, is a high official in the Shell Oil Company, but yet pays this tax and he will not pay, because he is irritated by the high cost of our out of state fishing license.

I hope that you people will vote for the passage of this bill to help these summer people because we need their money.

The SPEAKER: The Chair recognizes the Representative from Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker. Ladies and Gentlemen of the House: I would like to speak to you today for the Minority Report of this bill. I might look at it for a little different reason than maybe most of you do. I was a selectman in our town for a number of years and it is quite typical of the surrounding towns, our tax base is really non-resident camp owners in the area. We actually give them very, very little in return for their tax dollars. We don't educate their children, we don't plow their roads, and in the winter months we can't give them fire protection. They get very, very little for the tax dollar and they contribute tremendously to the support of these small rural towns that have a lot of lakes in them. I think that this isn't giving them a license at the same rate the residents get it. It is kind of

splitting the difference. We are meeting them halfway. I really see no objection to giving them a little bit for the large amount of tax dollars that they leave here in the state.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker. Men and Women of the House: I kind of have to wipe the tears out of my eyes here for the out of stater this morning because we have painted him up to be a pretty poor fellow. When this bill was advertised in my local paper, some of my people in my district said "what's this I see you fellows are going to do, you are going to create a special license for out of staters?" I said, "Well, there are some people that would like to do that." They said, "well, considering that you raised our license \$2, \$1 and \$1 for the next three years and then you are going to turn around and give this out of stater a break, I don't really see the reasoning in that." I told them "well, the sponsor of the bill says that it is a revenue enhancing bill. It is going to bring new people into the state to buy their license to fish." Their response was, "since there is not that many fish to go around now, and the pressure is really, really great on the resource, what effect is this new license, if you follow that line of argument through, going to have on the resource?" I said, "probably, we are going to have to expand our stocking." Who is going to pay for that? Not the out of stater, because he is getting a break on his license. So we have this circle going here.

Now, I was kind of sympathetic towards this bill until I got a letter from a fellow in New Jersey, who explained that he was living in New Jersey now, but he also had a place in Florida because he saves on the excise tax, he saves on the inheritance tax when he passes away, he saves on his state income tax, so he established in Florida. He said, by moving to Florida, I saved myself a considerable chunk of money. But I am really in favor of you saving me \$13.00 on my license. And that said it all. I don't know about the rest of you, but I looked through my voting list the other day and there weren't any non-resident people that elected me to this legislature and I think I was elected to represent the interest of the people of my district and if we are going to make them pay more, I really don't think we should make our people pay less.

Mr. Speaker I would like a roll call on this.

The SPEAKER: The Chair recognizes the Representative From Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker. Ladies and Gentlemen of the House: This bill really should become a law. I will tell you why. The Department has gone at this marketing process absolutely wrong. When you have a reduction in the numbers of people buying and you keep increasing the prices of your license, that really isn't good marketing practice. That is exactly what's happening. What we would be going after here is a market that we don't have. We are not selling licenses to these people as Representative Bonney says. They are taking their chances. There is no reason why we shouldn't go after this market. Those people are here every summer. They are summer residents and they don't bother to buy. I think that Representative Jackson is absolutely right and Representative Ridley, this is a market that we can have, that we have lost over the years. I had the statistics from 1960 to 1980 and it was unbelievable the decline in the licenses sold. So let's see if we can't get some of those back.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker. Ladies and Gentlemen of the House: Mr. Jacques brought up a very good point in his debate, something that I had forgotten about completely, in regards to the stocking program.

Who was going to pay for this, who was going to pay for that. My thoughts in that area, if we continue to increase the prices of these licenses, there is only going to be only one person who is going to be able to afford to do that. If we don't broaden the base, so to speak, of the non-resident licenses, the people who will purchase these non-resident licenses, the person that is going to be left saddled with funding this program are going to be the taxpayers of this state. Last year we saw the Department of Inland Fisheries and Wildlife come in and ask for an excess of \$400,000 and I believe we granted them \$360,000 from the general fund to assure their continuation through this last year. I understand that there is a movement on foot now to undedicate that department under the umbrella of the general fund guaranteeing or assuring that they will receive the proceeds of the licenses they sell and the registrations that they issue. Therefore, we are going to be asked to give more from the general fund for the operation of this department.

I guess my question is, if we have a resource out there and we have got the brooks and streams and we got the land mass that will satisfactorily handle these people and I don't think we have to look to too many of them coming to buy these licenses to offset the loss of revenues that we were discussing or have discussed as far as loss of licenses, I think somewhere in the vicinity of 4,000 licenses would bring back what we are discussing, that unless we do something to merchandise these licenses, as Representative Davis indicated, ought to increase the sales of licenses in this state, without increasing the prices, we have got to look to create a new marketable license. This is one that we can look at. I think it passed all the tests to be there. I just think that the general fund is strained, that to ask for more dollars from state government without looking to some other source of revenue or trying to increase some other source of revenue, I think that we are not acting in the best interest of this state.

I know that I have experienced some of the same comments that Representative Jacques has experienced in regards to this non-resident season fishing license, property owners fishing license. I don't think people really understand, and it will probably be debated when I sit down, what the non-residents contribute to the economy of this state or the counties or the municipalities. For example, one of the communities that I represent, 65% of the tax base is owned by non-residents. Another community I represent, 57% of the tax base is owned by non-residents, so they do make a substantial contribution to this state. I don't think it is too much to ask for a new license called a non-resident property owners license in recognition that they do make a contribution to this state, the counties and municipalities and also to encourage them to utilize our facilities within the law, so to speak. If some of those people out there are utilizing our facilities without paying for a license, I don't condone that but we certainly know that we don't have the wardens to enforce it. They certainly know it. I just think we should encourage these people to go down to their town office and buy a license, because that is where they would have to buy this license to utilize our facilities. There again, I would hope that you people here, the members of this House, would vote with me today and in not accepting the Majority Report, accepting the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker. Ladies and Gentlemen of the House: I would just like to respond briefly to a comment made by my good friend from Harrison, Representative Jackson, when he made the comment that the Department needed money and we helped

them out with some money from the general fund. I would just like all the freshman legislators to know that the reason we received \$358,000 from the general fund last session was reimbursement that was due us for search and rescue that general fund is supposed to reimburse.

Representative NICHOLSON: Mr. Speaker. Members of the House: The previous speakers, Representative Jackson and Representative Davis, I want to put in a personal note. I fully support what they were saying. Many years ago, my family had a honeymoon house in Waldoboro. As a matter of fact, I believe I was conceived there. I am pretty sure I could prove it. My family still owns this honeymoon house, people living in it from Massachusetts no less. My brother is responsible for the family for approximately 125 acres. We have been paying taxes in Waldoboro and Warren all of these years. Furthermore, my brother is an avid sportsman, he is a fisherman and he is a hunter. And I believe, from a personal note, he and others are to be given the same consideration on this particular question.

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

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

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker. Ladies and Gentlemen of the House: I have a question here. Would this bill, if passed, apply to those that own time sharing, which makes them property owners within the state? My other question is, how do other states treat people that own recreation property, like the State of New Hampshire, Vermont, etc.

The SPEAKER: The Representative from Biddeford, Representative Racine has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Kittery, Representative Soucy.

Representative SOUCY: Mr. Speaker, Members of the House: I can answer his question with New Hampshire, because I own a camp there. I pay an out of state resident fee.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker. Ladies and Gentlemen of the House: I will respond to the question from the Representative from Biddeford, Representative Racine. Yes, the people who own time share qualify for the non-resident license. But you must recognize too that most of those time shares are only here for a week or two weeks. Not very often are they here for any longer than that. One thing that I might state, Maine has or it did have up until a month and a half ago, and I don't think any other legislatures in the country have enacted increases yet, but Maine was the highest on a non-resident season fishing license of any state in the country. As a matter of fact, I think Representative Soucy, your fee is I think in New Hampshire, is \$17.00? About \$23.00 now, it has gone up then, I am sorry. In New Hampshire it is \$23.00. There are some states that do recognize, the southern part of the country, non-residents. The average, I wouldn't dare to say what it was, I don't have that with me here this morning, but the Department of Inland Fisheries and Wildlife did give me what they were in New England and I was surprised that, I didn't think New Hampshire was at \$23.00, but I am going to take your word for it and assume you are correct, they didn't have the exact figure and I thought they had \$17.00,

but Maine has the highest non-resident season fishing license in the country. That is one thing I would like you to remember.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker. Men and Women of the House: I won't take up too much of your time. It is my understanding that the Inland Fisheries and Wildlife Department is not sure whether this will have a positive or negative fiscal impact on the Department. I would like to point out that 30,000 less people, less residents in the State of Maine, brought licenses last year than the year before. If we follow this scenario through, does that mean we should in turn start reducing the price of the licenses for the resident to encourage him to buy it back? I'll grant you one of the problems has been, and it is not the fact 100% of the price of the licenses, it is the fact that the resource. We have reduced bag limits at the recommendations of biologists all across this state. It is getting to the point now where even for a guy like me from Waterville, Maine, it costs me about \$100 to go out to my camp for a weekend. The bag limit is now 3 fish and they are talking about reducing the bag limit again. You are going to get to the point where, is it worth somebody's to go up and fish on Moosehead Lake for one or two fish? That is one of the problems we have.

Another point you should think about. Let's say that we do this for the non-resident property owning fisherman. What's next? A hunting license and after that a trapping license? If you are going to treat one group of sportsmen one way, you got to treat the other ones. Do you think we need any more pressure on the deer herd in the State of Maine? Do you think we need any more pressure on the fur industry in the State of Maine? Now if you are going to start treating resident property owner fishermen, then how about the ice fishermen? Where does it all end? And then what is the difference going to be between somebody who stays in this state, pays all their bills in this state, lives in this state, pays all the taxes in this state, educates their children in this state and works in this state versus the guy who left the state to make more money because he couldn't make as much money as he wanted to make in this state and he is living some place else that he can afford by making a lot of money to buy a place here. All you got to do is think back and there is plenty of real estate agents in here. Think back at what the difference has made in real estate prices since the out of stater can come into Maine and buy. It has put the regular guy in the State of Maine right out of the market. If you don't believe so, go up to Moosehead Lake and see what you got to pay for a little camp somewhere. Just a little shack, \$45,000 or \$50,000. Well that is not the Maine resident that has brought the price of that up. It is the out of stater, who had come up here with that big wad of money in his pocket and now he is crying for \$13.00. Who are we representing here? People in Massachusetts or the people in the good ole State of Maine? The decision is up to you.

The SPEAKER: The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 18

YEAS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Bell, Bost, Brannigan, Brodeur, Brown, A.K.; Cahill, Callahan, Carroll, Carter, Cashman, Clark, Coles, Cote, Crowley, Dellert, Dexter, Diamond, Duffy, Erwin, Foster, Gwadosky, Hale, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Hoglund, Holloway, Ingraham, Jacques, Jalbert, Joseph, Lacroix, Law, Lebowitz, Lisnik, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McGowan, McHenry, McSweeney, Michaud, Mills,

Mitchell, Moholland, Murray, Nadeau, G.G.; Nelson, O'Gara, Paradis, E.J.; Paradis, P.E.; Paul, Perry, Pouliot, Priest, Racine, Reeves, Rice, Rioux, Rotondi, Ruhlin, Scarpino, Small, Smith, C.B.; Stevens, A.G.; Stevens, P.; Tammam, Tardy, Taylor, Telow, Theriault, Vose, Walker

NAYS:—Armstrong, Baker, A.L.; Begley, Bonney, Bott, Bragg, Brown, D.N.; Carrier, Conners, Cooper, Daggett, Davis, Descoteaux, Dillenback, Drinkwater, Farnum, Foss, Greenlaw, Higgins, L.M.; Hillock, Jackson, Kimball, Lander, Lawrence, Lord, MacBride, McCollister, McPherson, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Parent, Pines, Randall, Ridley, Roberts, Rolde, Rydell, Salsbury, Seavey, Sherburne, Soucy, Sproul, Stetson, Stevenson, Warren, Webster, Wentworth, Weymouth, Whitcomb, Willey

ABSENT:—Boutilier, Chonko, Connolly, Crouse, Kane, Melendy, Michael, Nadeau, G.R.; Richard, Simpson, Smith, C.W.; Strout, Swazey, Zirkilton, The Speaker

84 voted in favor and 52 against with 15 being absent, the motion did prevail.

Sent up for concurrence.

#### Consent Calendar

##### First Day

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

(H.P. 459) (L.D. 659) Bill "An Act to Amend the Provisions Governing the Procedures of the Maine Health Care Finance Commission" Committee on Human Resources reporting "Ought to Pass"

(H.P. 407) (L.D. 560) Bill "An Act to Clarify the Law Enforcement Responsibilities of the Forest Fire Control Division" Committee on Energy and Natural Resources reporting "Ought to Pass"

(H.P. 340) (L.D. 457) Bill "An Act to Transfer from the Bureau of Public Lands to the Baxter State Park Authority the Designation as the Agency of the State to Receive Funds Donated by Governor Percival P. Baxter" Committee on Energy and Natural Resources reporting "Ought to Pass"

(S.P. 20) (L.D. 24) Bill "An Act Concerning the Maine Maritime Academy Board of Visitors" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-32)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 2, 1985 under the listing of Second Day.

#### Consent Calendar

##### Second Day

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

(H.P. 365) (L.D. 485) Bill "An Act to Clarify the Fire Prevention and Inspection Laws in Regard to Municipal Enforcement" (Emergency) (C. "A" H-42)

(H.P. 156) (L.D. 190) Bill "An Act to Clarify the Use of Vocational-technical Institutes' Facilities by Others"

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

#### Passed to Be Engrossed

Bill "An Act to Require the Posting of an American Flag Inside All Public School Classrooms" (H.P. 828) (L.D. 1168)

Bill "An Act to Provide Credit Unions with the Same Right to make 2nd Mortgage Loans as Exist for Financial Institutions" (S.P. 411) (L.D. 1138)

Were reported by the Committee on Bills in the Second Reading, read a second time, the Senate Paper was Passed to be Engrossed in

concurrence and the House Paper Passed to be Engrossed and sent up for concurrence.

#### Tabled Unassigned

Bill "An Act to Provide a Sales Tax Exemption for Electricity used in an Electrothermal Manufacturing Process" (Emergency) (S.P. 420) (L.D. 1139)

Was reported by the Committee on Bills in the Second Reading and read a second time.

On motion of Representative Diamond from Bangor, tabled unassigned.

#### Passed to Be Enacted Emergency Measure Later Today Assigned

An Act to Establish a Maine Rivers Grants Program (H.P. 100) (L.D. 125) (H. "A" H-26 and C. "A" H-12)

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

On motion by Representative Diamond of Bangor, tabled pending passage to be enacted and later today assigned.

An Act Concerning Salary Provisions for Automotive Industry Personnel (S.P. 70) (L.D. 121) (C. "A" S-22)

An Act Relating to the Time of Penobscot Nation Trust Land Acquisition (S.P. 99) (L.D. 297) (C. "A" S-23)

An Act to Amend the Maine Administrative Procedure Act to Require the Designation of Federal and State Statutes and Regulations (S.P. 138) (L.D. 377) (C. "A" S-20)

An Act to Amend the Statute Providing for the Appointment of Clerks of Judicial Courts (S.P. 125) (L.D. 365)

An Act to Change the Name of the University of Maine Blueberry Advisory Committee (S.P. 107) (L.D. 322)

An Act to Equalize Trapping Rights in Unorganized Territory (S.P. 21) (L.D. 25)

Were 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.

RESOLVE, Authorizing the Conveyance of a Certain Unused Building and Land Owned by the State to the Town of Wells (S.P. 175) (L.D. 467)

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

On motion of Representative Martin of Van Buren.

Recessed until five o'clock in the evening.

(After Recess)

The House was called to order by the Speaker.

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

#### Petitions, Bills and Resolves Requiring Reference

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

**Appropriation and Financial Affairs**  
RESOLVE, Providing Support to the Regional Agriculture Committee (H.P. 845) (Presented by Representative MICHAEL of Auburn) (Ordered Printed.)  
Sent up for concurrence.

#### Taxation

Bill "An Act Establishing a Farm Equipment Tax Exemption Number" (H.P. 846) (Presented by Representative MICHAEL of Auburn)

Bill "An Act to Amend the Definition of In-

come under the Elderly Householders Tax and Rent Refund Act and the Elderly Low Cost Drug Program" (H.P. 847) (Presented by Representative MURRAY of Bangor) (Cosponsors: Representative CASHMAN of Old Town, CONNOLLY of Portland and NADEAU of Lewiston)

(Ordered Printed.)

Sent up for concurrence.

#### Transportation

Bill "An Act Relating to Reimbursements to No Spray Towns" (H.P. 848) (Presented by Representative MICHAEL of Auburn)

(Ordered Printed.)

Sent up for concurrence.

#### Reports of Committees

##### Unanimous Ought Not to Pass

Representative CARRIER from the Committee on Judiciary on Bill "An Act to Abolish the Insanity Defense but Permit a Verdict of Guilty but Suffering from Mental Disease or Defect" (H.P. 237) (L.D. 278) reporting "Ought Not to Pass"

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

##### Unanimous Leave to Withdraw

Representative KANE from the Committee on Judiciary on Bill "An Act to Create a New District for District Court" (H.P. 358) (L.D. 478) reporting "Leave to Withdraw"

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

##### Refer to the Committee on Judiciary

Representative PAUL from the Committee on Legal Affairs on Bill "An Act to Prohibit Consumption of Alcoholic Beverages within 15 Feet of a Public Way" (H.P. 529) (L.D. 749) reporting that it be referred to the Committee on Judiciary.

Report was read and accepted and the bill referred to the Committee on Judiciary and sent up for concurrence.

##### Refer to the Committee on Judiciary

Representative PAUL from the Committee on Legal Affairs on Bill "An Act to Provide Police Officers with Copies of Certain Laws" (H.P. 759) (L.D. 1079) reporting that it be referred to the Committee on Judiciary.

Report was read and accepted and the bill referred to the Committee on Judiciary and sent up for concurrence.

##### Ought to Pass as Amended

Representative PERRY from the Committee on Legal Affairs on Bill "An Act to Permit the Sale of Liquor on Days on Which Statewide General Election is Held" (H.P. 362) (L.D. 482) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-46)

Report was read and accepted and the Bill read once.

Committee Amendment "A" (H-46) was read by the Clerk and adopted and bill assigned for Second Reading tomorrow.

#### Consent Calendar

##### First Day

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

(H.P. 63) (L.D. 81) Bill "An Act to Measure Mileage Payments to Jurors" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-45)

(H.P. 551) (L.D. 893) Bill "An Act to Extend the Sunset Provision of the Potato Price Stabilization Law" Committee on Agriculture reporting "Ought to Pass"

(H.P. 333) (L.D. 448) Bill "An Act Relating to the Membership of and the Payment of Per Diem to Boards" Committee on State Govern-



ment reporting "Ought to Pass" as amended by Committee Amendment "A" (H-48)

(H.P. 76) (L.D. 96) Bill "An Act to Establish a Business Assistance Referral Program Within the State Development Office" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-49)

(H.P. 141) (L.D. 166) Bill "An Act to Dissolve the Eastport Utilities District" Committee on Utilities reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 2, 1985 under the listing of Second Day.

#### Passed to Be Enacted

An Act to Protect Tenants when Landlords Fail to Pay Utility Bills (S.P. 120) (L.D. 335) (C. "A" S-30)

An Act to Allow the Use of Bid Bonds on State Highway Projects (S.P. 124) (L.D. 364) (H. "B" H-40 to C. "A" S-26)

An Act to Conform Maine Committee on Aging Legislation with the 1981 Older Americans Act Amendments (S.P. 198) (L.D. 532) (C. "A" S-27)

An Act to Amend the Social Services Planning and Expenditures Act (S.P. 409) (L.D. 1132)

An Act to Clarify the Relationship between a Road Commissioner and the Municipal Officers (H.P. 118) (L.D. 143) (C. "A" H-30)

An Act to Amend the Law Regarding Parking Brake Requirements on Motorcycles and Motor Driven Cycles (H.P. 305) (L.D. 394)

An Act to Establish the Stanwood Wildlife Sanctuary in the City of Ellsworth (H.P. 332) (L.D. 455) (S. "A" S-33)

An Act to Assure Equitable Compliance with the Fair Credit Reporting Act (H.P. 436) (L.D. 618)

An Act to Facilitate the Settlement of Tort Claims of \$1,500 or Less (H.P. 343) (L.D. 460) (C. "A" H-31)

An Act Relating to Loans and Investments by Financial Institutions (H.P. 787) (L.D. 1102)

An Act to Conform Mortgage Lending Authority Among Financial Institutions (H.P. 788) (L.D. 1103)

An Act Concerning Certain Fines for Persons Under the Legal Drinking Age Under the Liquor Laws (H.P. 789) (L.D. 1104)

Were 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.

The Chair laid before the House the following matter: An Act to Establish a Maine Rivers Grants Program (H.P. 100) (L.D. 125) (H. "A" H-26 and C. "A" H-12) which was tabled earlier and later today assigned pending passage to be enacted.

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

Representative BROWN: Mr. Speaker. I would like to request a roll call.

Mr. Speaker: Ladies and Gentlemen of the House: This is a bill before us that has caused me a great deal of concern over the past few days and I would like to outline to the members of this body just what my concern is. I did something this year that I do I guess on the average of once every year since I have been in the legislature and that is I change my vote from the time a bill leaves the committee until it reaches the floor of the House. I don't do that easily and I don't do that without a lot of thought and consideration. It happened this time and I would like to describe to you why.

This bill, when it went through our committee, was discussed, came out of our committee with a unanimous Ought to Pass Report. I would like to describe to you very briefly what the bill does. Basically, the bill establishes a grants program within the Department of

Conservation. It is a grants program which would be available to, I suppose, municipalities, sportsman groups and other kinds of non-profit groups that are situated along rivers that would like to do some kinds of improvements along those rivers. The next question is, how would it be funded? We were told by the representatives of the department that it would be funded through, basically, two methods. One through a sale of decals which would be sold at sporting goods stores, and those decals would be advertised in papers such as the *The Maine Times*, as was indicated to us in the Committee. The second source of funding would be from private contributions. We were told at the time that there were a lot of individuals who had a great deal of concern about the rivers in Maine who wanted to make some kind of contribution to ensure the use of those rivers for generations to come and that this fund then would establish a means whereby individuals, companies, so forth, could make private donations to this fund and those grants would be administered within the Department of Conservation.

I had some real concerns at the time the bill was being heard before our committee and during the work session. My concerns were first of all, that this might blossom into something that might get a little out of control as quite often happens within the bureaucracy and, a year or two down the line, we would be adding funds from the general fund to make this program even better in the eyes of the bureaucrats. I was concerned that perhaps some methods of acquiring donations might be used that some of us wouldn't agree with, methods that perhaps the department might use in order to solicit these funds. I, as well as the other members of the Committee, were assured that these concerns really weren't that valid, that these kinds of things wouldn't happen, that it was such a good program that there would be people clamoring to buy decals and clamoring to make donations for a good cause. Well, I looked at it and I thought gosh, what harm can it do? That was my first mistake, because before it even became enacted into law, the Commissioner of the Department was soliciting a \$10,000 contribution from one of Maine's leading sporting goods retailers. The contribution he was seeking was a \$10,000 contribution and while it may have been, I suppose, for a good cause, it certainly made me open my eyes and go back to the question that I asked myself when our Committee was dealing with this, what harm can this do? Well, it really bothered me to see the Commissioner of one of our Departments going out, especially a regulatory agency, to a retailer such as the one I have described and seeking a \$10,000 contribution before this even became law. Some of the concerns that I voiced during the Committee work sessions came to fruition. My first impulse was to get very angry but I recalled the words of a very wise legislator who sat in front of me, the former Representative Rollins, who is now deceased, whose words of advice were "don't ever get up when your mad" and so fortunately the item continued to be tabled until I can get up and speak about this issue without being angry. But at the time, I was very angry because I thought that the agency was pushing a program which should not, I am now convinced, be a role of state government. State government I believe now should not be in the position of accepting contributions from the private sector for the purpose of making these kinds of grants. Now you might ask, what is wrong with that? I think that there is a lot wrong with it in light of what happened between the time the bill got out of committee, and where it is today. But even more importantly, I think that if the private sector wants to make contributions, and by the private sector I am talking about private businesses as well as individuals, if these individuals want to make contributions for what

I consider to be a very worthy cause, then certainly there must be other avenues within the private sector, outside of the public sector, such as the Audubon Society, such as the Natural Resources Council, two non-profit organizations that I think of right off the top of my head, who could easily put together this kind of program. That is clearly where it belongs. It does not belong in the public sector. I am much more convinced of that now than I was then. That is why, I have changed my position on this issue. I thought that I should tell you why.

I hope that you vote against this bill because I certainly consider it to be a bad public policy.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker. Men and Women of the House: I hope that you would vote in favor of this Bill. Representative Brown has clearly explained what the bill does. It allows the department to solicit funds and, in return, the individual will be able to get a decal. I, too, was upset when I found out how the Commissioner handled the situation. I think the problem with the Commissioner has been taken care of and I don't think this body should allow a good piece of legislation to go down the tubes because of the way it was handled. It is not uncommon for government to solicit funds for a good program. Our President has asked the private sector to help refurbish the Statute of Liberty. I think that if the private sector is willing to give money out to help out our different programs, I don't see anything wrong with that. This was a unanimous report out of the committee and I hope that this body would enact it today.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Some of the rivers of this state get a great deal of recreational use, like the Saco River, the Allagash River and other outstanding rivers and they are used by canoeists. As that use increases, there is a need to provide certain facilities for those people who go out canoeing. Those kind of facilities are mainly, parking areas, out-houses at parking areas, trash pick-up facilities and places to haul your boat in and out of the water. This bill would allow the people who use the rivers to pay for those services. The hunters and fishermen go out and they use the wild lands of Maine and we sell these people a license and the state gets that money and provides services to hunters and fishermen, hires biologists and what not with that money. It has always seemed to me that I really wouldn't want to go out and by a license to go canoeing or to go hiking, but nonetheless, those two user groups do require a few small services. I think they are willing to pay for those services and what the bill before us does is establish a very, very modest program where people who want to go canoeing and who want to have out-houses or some sort of better trash pick-up at a canoe haul, can pay a few dollars and buy a decal and support this program and put some money into the services they use. I think it is a good program. I regret the confusion that has surrounded it in the last couple of weeks. But, nonetheless, I think it is a fine, fine program. I ask you to support the bill today.

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

Representative BROWN: Mr. Speaker. In brief response to Representative Mitchell's comments about a modest program, I would agree that on paper it does appear to be a modest program, but we all know how modest programs in the bureaucracy go out of control.

I guess that I would just like to briefly address one of the points that the Representative from Medway, Representative Michaud, made. And before I do that, I want to say that I have

the utmost respect for Representative Michaud. In fact, none of you will recall me even lobbying you about this bill or even really talking to you about this bill. I think really, because of the respect I have for the Chairman of the Committee who has done a superb job on that committee this year. I haven't attempted to make this any kind of a partisan issue or anything of the nature. So it is out of the respect, I believe for the kind of job he has done in leading the committee, that I have not done that. But I would respond to the comments he made relative to the President's plea for private donations to repair the Statue of Liberty. I believe that that is handled through a private, non-profit organization. Certainly with the administration's blessing, but my understanding is that Lee Iacocca is the Chairman of that non-profit organization and it is being conducted outside of the public sector. This is where that sort of thing belongs.

Again, I urge you to vote against this bill.

The SPEAKER: The Chair recognizes the Representative from Sidney, Representative Bragg.

Representative BRAGG: Mr. Speaker. I would just like to speak to this. I don't have a position at this point, either for or against. I am not arguing for that but the person who blew the whistle on this whole thing just happens to live in my district. I think it is quite important to point out to the members of the House that this did happen in that respect. It has been a lesson to me. It may have happened before, I don't know. But being a freshman here, this has been an experience for me. I just feel this needs to be verbalized, for us to be very wary of when we are voting on an issue that involves money to know where that funding is coming from before we do enact these things. I think it is just very fortunate in this particular case that it was exposed before it did come to a final vote.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker. Men and Women of the House: This bill is strictly on a voluntary basis. It is not mandating that anyone has to buy a decal. It is voluntary. As I mentioned earlier, I too, was upset at the way that the Commissioner handled this. Since then, he has been called to the woodshed and I don't believe that this will happen again. But I don't feel that we should let a program that will have the users pay go down the tubes because of the action of the Commissioner. I hope that he will not do that again. So I urge this body to vote in favor of L.D. 125.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker. Ladies and Gentlemen of the House: I think Representative Michaud had brought out an important point. He said voluntary. To me the word voluntary and the word solicitation don't always go together. A person or corporation wishes to voluntarily donate to a cause such as this, that is one thing but when the monies are going to be coming into this fund via the solicitation route from a government agency, I really feel that it is the wrong, wrong way to go. If the program is worthy, let's pay for it through taxation, so everybody participates in the good program.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker. Men and Women of the House: Just a couple of short comments in response to Representative Davis' comments. First, an agency like the United Way is funded by voluntary contributions. But they are not exactly unsolicited contributions. The company which is solicited in this case, as is obvious, had no trouble whatsoever refusing that solicitation.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 19

YEAS:—Aliberti, Allen, Beaulieu, Boutilier, Brannigan, Brodeur, Brown, A.K.; Carroll, Carter, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Daggett, Descoteaux, Dexter, Diamond, Drinkwater, Duffy, Erwin, Farnum, Gwadosky, Hale, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Hoglund, Holloway, Jacques, Joseph, Kane, Joseph, Kane, Lacroix, Lander, Law, Lisnik, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, Moholland, Murray, Nelson, O'Gara, Paradis, P.E.; Parent, Paul, Perry, Priest, Racine, Randall, Rice, Richard, Ridley, Rioux, Roberts, Rolde, Rotondi, Rydell, Simpson, Soucy, Stevens, P.; Swazey, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, The Speaker

NAYS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bragg, Brown, D.N.; Callahan, Conners, Davis, Dellert, Dillenback, Foss, Foster, Greenlaw, Handy, Harper, Higgins, L.M.; Hillock, Ingraham, Jackson, Lawrence, Lebowitz, Lord, MacBride, McPherson, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Paradis, E.J.; Pines, Salisbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton

ABSENT:—Baker, H.R.; Bost, Bott, Cahill, Carrier, Cashman, Chonko, Jalbert, Kimball, Nadeau, G.G.; Nadeau, G.R.; Pouliot, Reeves, Ruhlin, Strout, Webster

87 voted in favor and 48 against with 16 being absent, the motion did not prevail.

#### Orders of the Day

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

Bill "An Act to Remove the Small Business Exception Regarding Medical Benefits because of Pregnancy under the Maine Human Rights Act" (S.P. 51) (L.D. 69)

TABLED—March 29, 1985 by Representative DIAMOND of Bangor.

PENDING—Passage to be Engrossed.

Whereupon, the Bill was passed to be engrossed and sent up for concurrence.

Representative MacBride of Presque Isle moved that the House reconsider its action whereby this Bill was passed to be engrossed.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: Being a woman, it is not easy to argue against pregnancy benefits for women as you find in L.D. 69. However, I feel that there are a number of dangers in mandating one more expense to small business as is found in this L.D. As the law is now, if an employer with 15 or fewer employees, wants to provide medical benefits for his employees, he does not need to provide medical benefits for pregnancy. This Bill, L.D. 69, still allows employers with fewer than 15 employees not to provide medical benefits to employees but if that employer does provide medical benefits, he or she must include pregnancy benefits and that is a problem, I believe. If employers have to provide maternity benefits, they may decide not to offer a

health insurance program at all because it would increase their costs considerably. For instance, the North Country Plan insured by the American Health and Life had a plan for a person under 30 and his wife—that plan would increase the policy by \$31.95 per month if pregnancy benefits were added. Travelers and Hartford Life and Accident has similar plans. It would be most unfortunate, I think, for an employee not to have health coverage with hospital costs as high as they are and would have a decided effect on the dependents of employees.

Then, what about a small business who employs all men because of the physical aspects of that business? Should the employer have to carry a pregnancy benefit then? An employer may decide to hire only women beyond the child bearing age because of the complications of trying to juggle employees when he has only three or four. I think that this would be most unfortunate. Firms of one to ten employees make up 77 percent of the businesses in Maine and employ 17 percent of the private sector work force. Many of these small businesses are having a struggle to survive.

I hope that we will not mandate one more expense for them. I urge you to vote against this bill and I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Lebowitz.

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I cosigned this bill without proper scrutiny and after hearing arguments for it, I listened to them at the committee hearing but I became convinced that there seems to be no compelling reason for legislation regarding this matter and I urge you to vote in opposition.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Fellow Representatives: I was asked by the Governor's office to cosponsor this bill and like the Representative from Bangor, I did cosponsor this bill. The Governor supported the bill and, as I looked over the bill, I was convinced that it a good idea and I agreed to cosponsor it. I still strongly support the bill.

I think some background is necessary on this bill. In 1979, the legislature enacted Chapter 79, which prohibited unlawful employment discrimination on the basis of sex. This statute said that an employer could not treat a pregnant woman who was unable to work because of pregnancy any differently than any other employee who was unable to work because of a disability. Therefore, if an employer offered medical benefits to his employees, he could not refuse to offer medical benefits for pregnancy when it was disabling. All employees, men and women, are to be treated alike for medical benefits and when medical costs of pregnancy results from a disability caused by pregnancy it has to be treated like any other medical cost. Now that is clear enough. Business may not have liked this at first but because of extensive social responsibility, has learned to live with it but there is an interesting and curious exception to this rule—if a business had 15 or fewer employees, it is okay to refuse medical benefits for pregnancy when the pregnancy is disabling. This clearly discriminates between employees of large businesses and employees of small business. This bill, which has the Governor's support, will end this unnecessary discrimination.

It seems to me that it is important to see what this bill will not do. It does not mandate medical benefits by small employers. Any small employer who thinks that he cannot afford medical benefits does not have to offer them. This is not a mandated coverage bill and, therefore, Blue Cross-Blue Shield, for example, did not oppose the bill at the public hearing.



This will not automatically increase medical benefit costs to all small employers. Those employers with few or no female employees of child bearing age should see little or any increase in their health care premiums if they offer health care. Note also that this bill applies to medical bills arising from disability caused by pregnancy—that is a very narrow situation. In general, it applies to delivery, obviously, if a female employee who is disabled at the time of delivery and problem pregnancies. It does not apply to all normal medical bills caused by pregnancy.

The question of cost is very difficult because of the wide variety of employers, small employers, throughout the state. We asked, for example, Blue Cross-Blue Shield, as to what they thought the hypothetical increase would be. They again, said it was difficult to give a precise figure, but in a hypothetical work force of 12 employees, six of which were women of childbearing age, Jadine O'Brien estimated an increase of only five to ten percent in medical costs. Note that this bill does not apply to spouses, does not cover the wives of employees, it only covers female employees. It seems to me that this bill will send a message and that is a popular phrase—we will not punish working women simply because they work for small business instead of large ones. If they become pregnant, they will get the same treatment of medical costs as if they worked for any employers offering medical benefits. We won't deny women employees of small businesses offering payment of their medical benefits for pregnancy when that pregnancy is disabling while allowing the payment of medical bills from an injury such as a broken arm. We will not punish those women who choose to work for small businesses instead of large businesses.

This bill is a good bill; it has the Governor's support and I think that this is important to those of you who are concerned about its effect on business and economic development. It does not harm small businesses. It ends discrimination against female employees of small business and I think that it deserves our support.

I urge you not to vote for reconsideration.

The SPEAKER: the Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I am really amazed at the gentlemen from Brunswick in his argument about sending a message. Last Friday we sent a message to Washington asking the President to consider the rights of small business in Maine. It was on the front page of our calender last Friday and we sent that message saying, "Mr. President, please take a look at the small businessman in Maine." Now what is the message we propose to send today? Do we propose to say to the small businessman—you are discriminating against women or are we going to say to the small businessman—we trust you, we believe in you, we will support you.

I urge you to vote in favor of reconsideration.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and Women of the House: I have heard the arguments that this bill would create economic hardship for small businesses, that they can't afford to provide this coverage—I agree that this is an economic issue but I contend that small business cannot afford not to provide this coverage for their female employees who are pregnant. I would like to take a few moments to explain why.

I don't believe that there is anyone in this chamber who wants to be responsible for the birth of a damaged child. We all want to provide every child born in the State of Maine with the very best possible start to a healthy, protective life. Well, for every child, the

chances for that healthy life starts, not at birth but in the mother's womb. What happens to a mother during pregnancy determines the health of her baby. Indeed, it might make the difference between a normal baby and a handicapped baby, between a normal baby or one who suffers health problems throughout childhood or maybe throughout life. For the past sixteen years, I have watched families and helped families who have struggled to care for their damaged children. It is tragic to watch this happen when everything possible has been done to provide care during pregnancy. It is even more tragic to know that a woman who was not able to get the care she needed because she could not afford it, because her employer did not offer medical disability benefits for her during pregnancy. Fortunately, for most women, pregnancy is a very normal course of events. It is not temporarily disabling but for some women it is temporarily disabling, and if they are going to have a chance to deliver a normal, healthy baby, then they deserve that chance to be considered temporarily disabled.

It is the question of the unborn child's right to a healthy start in life, to be born as fully developed and as strong as possible to withstand the trauma of birth and the precarious first period of life. We have a terrible problem of infant mortality in this country despite the most advanced medical system in the world. A good part of our problem stems from the birth of babies with low birth weight, underdeveloped babies. Those weighing less than five and a half pounds are almost 40 times more likely to die during their first four weeks of life than the normal birthweight infant and those low birthweight infants, who do survive, at an increased risk of having health problems ranging from all kinds of neuro-developmental handicaps like cerebral palsy, epilepsy, mental retardation, physical health problems, particularly respiratory conditions. What we spend on these undeveloped babies to keep them alive and provide them with specialized care is astronomical compared to what it would cost for an insurance policy to cover temporary disability due to pregnancy. We are talking about saving \$5.00 now and spending \$500, \$5,000 or \$50,000 or \$100,000 in neonatal intensive care unit. Some of these babies would not be there in the neonatal intensive care unit if their mothers had had temporary disability benefits during their pregnancy.

I am aghast and angry when I have to hear a woman say that she can't afford to stay home when she is not feeling well during pregnancy, that she can't afford to take her doctor's advice and let herself be temporarily disabled. I am angry on behalf of her child, her unborn child, who can't speak for himself or herself. I want that child to have a chance to be normal.

In 1985, the Institute of Medicine in Washington conducted a study on the causes and preventions of low birthweights and I recently have been studying their report. They concluded that the prevention of low birthweights would result in a significant reduction in infant mortality and a significant improvement in the general health condition of all our young children. Their primary recommendation to increase the accessibility of care to women during pregnancy, make it available to all women and allow those women who are having problem pregnancies to get the very best possible medical care.

I know that families pay a very high price when they have a damaged child, emotional, psychological, economic price but I also know that the community pays a very high price. We all pay and perhaps business pays the most when a damaged child is born. The same business that would not have to pay a small, extra premium for its employees health benefits so that those benefits will cover pregnancy disability will have no choice when

the school budget includes \$15,000 or \$20,000 for a special program for a child. That same business will contribute to paying for the cost of health care for the child when the family is not able to do that. This is really a children's bill. It is one, small step in the process of protecting those who come after us. It is no woman's fault that she has a problem pregnancy. None of us go into pregnancy hoping that that is going to happen to us. We all want to have a normal pregnancy but we also need to recognize that there are some women who do have problem pregnancies and it is not just the woman who do have problem pregnancies and it not just the woman we are protecting, it is the unborn child, the unborn child whose mother needs help during pregnancy so that she can protect her child.

Let's not be penny wise and pound foolish.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

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

Since there is no existing law in the State of Maine that now requires businesses to offer insurance coverage to their employees—my question is, does anyone here have any idea what percentage of Maine business presently do offer that coverage to their employees and whether or not it is a large majority of the businesses who are not?

The SPEAKER: The Representative from Mt. Desert, Representative Zirkilton, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Men and Women of the House: I am sorry, I do not know the answer to that question, I think that a good many businesses do provide that benefit; however, there are 77 percent of the businesses that do employ from one to ten employees in their businesses and I think that is important and I don't think they should be forced to provide these benefits unless they really want to. I think that it is extremely important too that a mother have all the care that she possibly can with her pregnancy, I fully support that. However, I don't think it is the small employers responsibility. As the law is now, if you employ, under the federal law, more than 15 people you do have to provide pregnancy benefits. This concerns only those businesses that have fewer than 15 employees. I really feel that one more mandated benefit is going to be most difficult for our small business people.

I hope that you will vote against this bill.

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to disabuse the House of one notion and that is that this Bill mandates or requires due benefits—it does not. If it is anything, it is a free market bill and allows the people to do exactly what they want. Blue Cross-Blue Shield took no position on this legislation and their expressed reason for not taking a position was that it did not mandate any benefits whatsoever. It is going to be said that is does and you probably are going to hear some incredibly inflated figures on what it will cost because the lone opposition to this bill, the one person who showed up against it, not from the National Federation of Independent Businesses, not from the Maine Chamber of Commerce or Industry—a lone insurance agent showed and after he left, he later sent us some figures saying how much it would cost for this group, that group and that group, but if one looks at them, you can see what he is talking about is requiring this sort of pregnancy insurance for the spouses of all workers in the workplace. This

has nothing to do with it. This is for the female employee who becomes pregnant and all this bill really does is to ensure that the woman employee who is disabled, not just pregnant, pregnancy is not a disability under this bill, but the women who is disabled, as a result of a pregnancy, will be treated the same way as her co-worker, man or woman, who is disabled because of a softball injury. That is what it does. It is not on the job injuries. As we all know, workers compensation takes care of them handsomely.

There has been sort of a suggestion here that this bill is somehow anti-business. I think that that is completely wrong. It is not anti-business at all. All it says is that when this original bill was passed, six years ago, there was a Committee Amendment on it that exempted businesses with under 15 employees and so we have given statutory permission in the State of Maine to say to an employer with under 15 employees to say that I will give—leave of absences, give sick leave, give medical benefits, whatever he or she gives as an employer, but I won't give them if you get pregnant. I will give them in every other instance but if you are pregnant, I will not give them. We have given specific statutory authorization for that. I think it is indefensible and I would suggest that we defeat the motion to reconsider.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Members of the House: Representative Kane has said that there will be figures offered that will inflate the amount of money that this bill is going to cost. There won't be any figures offered, not by me anyway, because no one can answer the question as to now much the businesses in the State of Maine presently voluntarily offer insurance to their employees and as a result of their not being an answer to that question, it would also stand to reason to me that they can't say how much money it will or will not cost.

As far as mandating the benefits, if we voluntarily offer an insurance policy to our employees now and the State of Maine is going to tell us that, if you do offer an insurance policy, this is the kind of insurance that you must offer. It must contain the provision that you are talking about here today. That, to me, is mandated benefits. It is also possibly going to tell that particular employer or any employer that they have the option of offering insurance. It may be one more step toward them saying, well, maybe it is not in our budget to offer insurance and that may not be in the best interest of the employers of this state. It may mean they may not get any coverage at all. I think that you should think about that.

The SPEAKER: The Chair recognizes the Representative from Canton, Representative McCollister.

Representative MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I am angry also when we are asked to tell our working women—if your employer is unable or unwilling to furnish pregnancy insurance but is able and willing to give that woman health insurance, is it in the woman's best interest to have no insurance?

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

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

Who makes the determination of what a disabling pregnancy is?

The SPEAKER: The Representative from Skowhegan, Representative Hepburn, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men

and Women of the House: The answer to the question is, the woman's doctor. Any medical benefits paid with regards to pregnancy have to be certified by a physician. They aren't just something that a woman decides she is disabled because of her pregnancy, they have to be certified by a physician.

Representative Callahan of Mechanic Falls moved the previous question, which was ordered.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debateable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

A vote of the House was taken.

91 having voted in the affirmative and 11 in the negative, the motion did prevail.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Presque Isle, Representative MacBride, that the House reconsider its action whereby this bill was passed to be engrossed.

Pursuant to Joint Rule 10 and House Rule 19, the Speaker will excuse himself from voting due to a conflict of interest.

The SPEAKER: The Chair recognizes the Representative from Canton, Representative McCollister.

Representative MCCOLLISTER: Mr. Speaker, as a small employer that will be in conflict with this bill, should I vote?

The SPEAKER: The Chair will answer in the affirmative. The reason for the Speaker's excuse has nothing to do with being an employer; it has to do with being an insurance agent.

The pending questions before the House is the motion of the Representative from Presque Isle, Representative MacBride, that the House reconsider its action whereby this bill was passed to be engrossed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 20

YEAS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bragg, Brown, D.N.; Callahan, Connors, Davis, Dellert, Dexter, Dillenback, Drinkwater, Duffy, Farnum, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Lander, Law, Lawrence, Lebowitz, Lord, MacBride, Masterman, Matthews, McCollister, McPherson, Mills, Murphy, E.M.; Murphy, T.W.; Nickerson, Paradis, E.J.; Parent, Racine, Randall, Rice, Richard, Salisbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Tardy, Taylor, Telow, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton

NAYS:—Aliberti, Allen, Beaulieu, Boutilier, Brannigan, Brodeur, Brown, A.K.; Carroll, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Descoteaux, Diamond, Erwin, Gwadosky, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Jacques, Kane, Lacroix, Lisnik, Macomber, Manning, Martin, H.C.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, Moholland, Murray, Nelson, Nicholson, O'Gara, Paradis, P.E.; Paul, Perry, Pines, Priest, Reeves, Ridley, Rioux, Roberts, Rolde, Rotondi, Rydell, Simpson, Smith, C.B.; Soucy, Stevens, P.; Swazey, Tammara, Theriault, Vose, Walker, Warren

ABSENT:—Baker, H.R.; Bost, Bott, Cahill, Carrier, Carter, Cashman, Chonko, Daggett, Jalbert, Joseph, Kimball, Nadeau, G.G.; Nadeau, G.R.; Pouliot, Ruhlin, Strout, Webster

EXCUSED:—The Speaker

65 having voted in the affirmative and 67 in the negative with 18 being absent and 1 excused, the motion did not prevail.

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

Bill "An Act Relating to Retirement Benefits of Superior Court Employees" (H.P. 81) (L.D. 101)

TABLED—March 29, 1985 by Representative HICKEY of Augusta.

PENDING—Passage to be Engrossed.

Representative McHenry of Madwaska offered House Amendment "C" (H-52) and moved its adoption.

House Amendment "C" (H-52) was read by the Clerk.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is presented with the hope that it will take care of most of the problems that we have encountered with this bill. It will allow the county commissioners of the various counties to vote to fund these retirement funds if they so wish with the approval of either the budget committee if one were to be out in place or the delegation so I would hope that you would support this amendment.

Whereupon, House Amendment "C" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "C" and sent up for concurrence.

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

Bill "An Act Concerning Fees Charges by Municipalities for Copies of Vital Records" (S.P. 398) (L.D. 1108)

TABLED—March 29, 1985 by Representative SOUCY of Kittery.

PENDING—Passage to be Engrossed.

Whereupon, the Bill was passed to be engrossed in concurrence.

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

Bill "An Act Regarding Workers' Compensation Commission Staffing" (Emergency) (H.P. 811)

(Committee on State Government suggested.)  
TABLED—March 29, 1985 by Representative CARTER of Winslow.

PENDING—Motion of same Representative to refer Bill to Committee on Appropriations and Financial Affairs.

On motion of Representative Carter of Winslow, retabled pending his motion to refer Bill to Committee on Appropriations and Financial Affairs and tomorrow assigned.

On motion of Representative Clark of Millinocket.

Adjourned until nine o'clock tomorrow morning.