

# 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**

Tuesday, April 2, 1985

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

Prayer by Reverend Hanford Bradstreet, Assembly of God, Brunswick.

Quorum called; was held.

The Journal of yesterday was read and approved.

**Papers from the Senate**

The following Communication:

The Senate of Maine

Augusta

April 1, 1985

The Honorable John L. Martin

Speaker of the House

112th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Utilities, the Governor's nomination of Cheryl Harrington of Winthrop for reappointment as a Commissioner of the Public Utilities Commission.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$3,000,000 for Acquisition and Development of State Parks, Historic and River Access Sites" (S.P. 425) (L.D. 1182)

Bill "An Act to Provide for Service Foresters" (S.P. 429) (L.D. 1187)

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

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

Bill "An Act Concerning Inspection of Boarding Care Facilities" (S.P. 426) (L.D. 1183)

Bill "An Act to Provide Adequate Medical Services for Victims of Rape, Gross Sexual Misconduct or Sexual Abuse" (S.P. 427) (L.D. 1184)

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

Were referred to the Committee on Human Resources in concurrence.

Bill "An Act to Amend the Juvenile Laws to Reflect the Change from Probation and Intake Workers to Juvenile Caseworkers" (S.P. 428) (L.D. 1185)

Bill "An Act to Provide Disclosures to Nursing Home and Hospital Residents Transferring Property" (S.P. 430) (L.D. 1188)

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 Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide Local Regulation of Swimming Pool Fencing" (S.P. 95) (L.D. 293)

Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Amend the Workers' Compensation Act to Permit a Member in Good Faith of an Employee's Household to Collect Death Benefits under Certain Conditions" (S.P. 347) (L.D. 942)

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

**Unanimous Leave to Withdraw**

Report of the Committee on Taxation repor-

ting "Leave to Withdraw" on RESOLVE, to Instruct the State Planning Office to Conduct a Study as to the Feasibility and Effect of a Constitutional Amendment to Value and Assess all Real Property at its Current use" (S.P. 255) (L.D. 650)

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Reduce Primary Election Costs" (S.P. 158) (L.D. 425)

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Change the Date of the Primary Election" (S.P. 334) (L.D. 822)

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Change Election Dates" (S.P. 339) (L.D. 925)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Alleviate the Excess Work in the Court System" (S.P. 276) (L.D. 734)

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

**Refer to the Committee on Judiciary**

Report of the Committee on State Government on Bill "An Act to Clarify the Laws Relating to Notary Public (S.P. 140) (L.D. 379) reporting that it be referred to the Committee on Judiciary.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Judiciary.

Report was read and accepted and the bill referred to the Committee on Judiciary in concurrence.

**Divided Report****Later Today Assigned**

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Prohibit Radar Detectors" (S.P. 45) (L.D. 62)

Signed:

Sensors:

ERWIN of Oxford

SHUTE of Waldo

Representatives:

CAHILL of Woolwich

THERIAULT of Fort Kent

MACOMBER of South Portland

MOHOLLAND of Princeton

STROUT of Corinth

CALLAHAN of Mechanic Falls

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

Signed:

Sensor:

DANTON of York

Representatives:

POULIOT of Lewiston

SOUICY of Kittery

MILLS of Bethel

McPHERSON of Eliot

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Reports were read.

Representative Theriault of Fort Kent moved that the House accept the Majority "Ought Not to Pass" Report.

On motion of the same Representative, tabled pending his motion to accept the Majority "Ought Not to Pass" Report and later today assigned.

**Non-Concurrent Matter**

Bill "An Act to Clarify the Determination of Fair Return Allowances for For-profit Hospitals" (H.P. 830) (L.D. 1174) which was referred to the Committee on Business and Commerce in the House on March 29, 1985.

Came from the Senate, referred to the Committee on Human Resources in non-concurrence.

The House voted to recede and concur.

**Orders**

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order: ORDERED, that Representative Gennette M. Ingraham of Houlton be excused March 28 and 29 for legislative business.

Was read and passed.

**Reports of Committees****Unanimous Leave to Withdraw**

Representative COOPER from the Committee on Judiciary on Bill "An Act Concerning Limitation of Actions Against Land Surveyors" (H.P. 111) (L.D. 136) reporting "Leave to Withdraw"

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

**Divided Report****Later Today Assigned**

Majority Report of the Committee on Marine Resources on Bill "An Act Concerning the Distribution of Atlantic Salmon Smolts and the Conservation of Atlantic Salmon" (H.P. 30) (L.D. 31) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 836) (L.D. 1180)

Signed:

Sensors:

CHALMERS of Knox

SHUTE of Waldo

BROWN of Washington

Representatives:

COLES of Harpswell

CROWLEY of Stockton Springs

MITCHELL of Freeport

VOSE of Eastport

SCARPINO of St. George

SALSBURY of Bar Harbor

MANNING of Portland

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

Signed:

Representatives:

RICE of Stonington

CONNERS of Franklin

RUHLIN of Brewer

Reports were read.

Representative Crowley of Stockton Springs moved that the House accept the Majority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought to Pass" Report and later today assigned.

**Divided Report****Later Today Assigned**

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Provide Teacher Professional Time During the School Day" (H.P. 158) (L.D. 192)

Signed:

Sensor:

HICHENS of York

Representatives:

MATTHEWS of Caribou

O'GARA of Westbrook

BROWN of Gorham

FOSS of Yarmouth

LAWRENCE of Parsonsfield

SMALL of Bath

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-44) on same Bill.

Signed:

Sensors:

GAUVREAU of Androscoggin

BROWN of Washington

Representatives:

HANDY of Lewiston

CROUSE of Caribou

BOST of Orono

ROBERTS of Farmington

Reports were read.

Representative Brown of Gorham moved that the House accept the Majority "Ought Not to Pass" Report.

On motion of the same Representative,

tabled pending her motion that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Transportation reporting "Ought to Pass" Report as amended by Committee Amendment "A" (H-47) on Bill "An Act Relating to Motorcycle Safety" (H.P. 261) (L.D. 315)

Signed:

Senators:

DANTON of York  
ERWIN of Oxford

Representatives:

THERIAULT of Fort Kent  
MACOMBER of South Portland  
POULIOT of Lewiston  
SOUCY of Kittery  
MILLS of Bethel  
McPHERSON of Eliot  
CAHILL of Woolwich

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

Signed:

Senator:

SHUTE of Waldo

Representatives:

MOHOLLAND of Princeton  
STROUT of Corinth  
CALLAHAN of Mechanic Falls

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative THERIAULT: Mr. Speaker, I move the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House. I wish that you would not accept the Majority "Ought to Pass" Report and take time to look at the bill. We have had this bill previously. We had no luck with it, or they had no luck with it. Just take a little time and read it. What it does do is have a modulating light on a motorcycle. The heading is awfully broad. Just visualize a motorcycle coming down the road with a modulating light. I think it is going to be more of a hinderance than it is going to be a help. I hope you do not accept the Majority "Ought to Pass" Report and go with the Minority "Ought Not to Pass" Report.

On motion of Representative Strout of Corinth, tabled pending the motion of the Representative from Fort Kent, Representative Theriault, that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

#### Consent Calendar

##### First Day

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

(S.P. 106) (L.D. 321) RESOLVE, Approving the Standards and Regulations Adopted Under the Chemical Substance Identification Law Committee on Energy and Natural Resources reporting "Ought to Pass"

(S.P. 234) (L.D. 596) Bill "An Act to Extend the Date for Determining the Maine Tree Growth Tax Law Forest Land Values to Apply in 1985" (Emergency) Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-34)

No objections having been noted, the above items were ordered to appear on the Consent Calendar under listing of Second Day, later in today's session.

#### Consent Calendar

##### Second Day

In accordance with House Rule 49, the following items appeared on the Consent

Calendar for the Second Day:

(H.P. 459) (L.D. 659) Bill "An Act to Amend Provisions Governing the Procedures of the Maine Health Care Finance Commission"

(H.P. 407) (L.D. 560) Bill "An Act to Clarify the Law Enforcement Responsibilities of the Forest Fire Control Division"

(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"

(S.P. 20) (L.D. 24) Bill "An Act Concerning the Maine Maritime Academy Board of Visitors" (C. "A" S-32)

(H.P. 63) (L.D. 81) Bill "An Act to Measure Mileage Payments to Jurors" (C. "A" H-45)

(H.P. 551) (L.D. 823) Bill "An Act to Extend the Sunset Provision of the Potato Price Stabilization Law"

(H.P. 333) (L.D. 448) Bill "An Act Relating to the Membership of and the Payment of Per Diem to Boards" (C. "A" H-48)

(H.P. 76) (L.D. 96) Bill "An Act to Establish a Business Assistance Referral Program Within the State Development Office" (C. "A" H-49)

(H.P. 141) (L.D. 166) Bill "An Act to Dissolve the Eastport Utilities District"

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

#### Passed to Be Engrossed

Bill "An Act Relating to the Protection of Underground Facilities under the Public Utility Law" (H.P. 835) (L.D. 1179)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed, and sent up for concurrence.

#### As Amended

Bill "An Act to Permit the Sale of Liquor on Days on Which Statewide General Election is Held" (H.P. 362) (L.D. 482) (C. "A" H-46)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

#### Passed to Be Enacted Emergency Measure

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 (H.P. 844) (L.D. 1186)

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. 127 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

#### Orders of The Day

##### Later Today Assigned

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

Bill "An Act to Create a State Committee to Deal with Post-Secondary Vocational-technical Education" (H.P. 839)

(Committee on Educational suggested)  
TABLED—April 1, 1985 by Representative GWADOSKY of Fairfield.

PENDING—Reference.

On motion of Representative Gwadosky of Fairfield, tabled pending reference and later today assigned.

#### Later Today Assigned

The Chair laid before the House the second

tabled and assigned matter:

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

(Committee on State Government suggested.)  
TABLED—April 1, 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, tabled pending his motion to refer Bill to the Committee on Appropriations and Financial Affairs and later today assigned.

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

On motion of Representative MacBride of Presque Isle.

Recessed until four thirty in the afternoon.

(After Recess)

The House was called to order by the Speaker.

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

#### Papers from the Senate

##### Refer to the Committee on Judiciary

Report of the Committee on Legal Affairs on Bill "An Act Relating to Loitering on Public Sidewalks" (S.P. 416) (L.D. 1146) reporting that it be referred to the Committee on Judiciary.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Judiciary.

Report was read and accepted and the bill referred to the Committee on Judiciary in concurrence.

#### Non-Concurrent Matter

Bill "An Act Relating to Retirement Compensation for Judges who Ceased to Serve Prior to December 1, 1984" (H.P. 841) (L.D. 1191) which was referred to the Committee on Judiciary in the House on April 1, 1985.

Came from the Senate, referred to the Committee on Aging, Retirement and Veterans in non-concurrence.

The House voted to recede and concur.

#### 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:

#### Energy and Natural Resources

Bill "An Act to Establish the Maine Conservation Corps" (Emergency) (H.P. 849) (Presented by Representative BEAULIEU of Portland) (Cosponsors: Representatives HOGLUND of Portland, RANDALL of East Machias, and Senator PEARSON of Penobscot) (Submitted by the Department of Conservation pursuant to Joint Rule 24)

Bill "An Act Concerning the Harvesting of High-value Wood for Processing into Wood Chips for Biomass Boilers" (H.P. 850) (Presented by Representative RIDLEY of Shapleigh) (Cosponsors: Representatives JACQUES of Waterville, DEXTER of Kingfield, and MICHAUD of Medway)

(Ordered Printed)

Sent up for Concurrence.

#### Later Today Assigned

Bill "An Act to Require Fingerprinting of Employees at Day Care Centers, Schools and other Similar Facilities" (H.P. 851) (Presented by Representative SWAZEY of Bucksport)

The Committee on Human Resources was suggested.

On motion of Representative Brodeur from Auburn, tabled pending reference and later today assigned.

#### Legal Affairs

Bill "An Act to Amend the Liquor Laws" (H.P. 852) (Presented by Representative McGOWAN of Canaan) (Cosponsors: Representatives MILLS of Bethel and DEXTER of Kingfield)

Bill "An Act to Increase Public Safety in Homes" (H.P. 853) (Presented by Representative WEBSTER of Cape Elizabeth) (Cosponsor: Representative HILLOCK of Gorham)

Bill "An Act Concerning Reports to the Federal Government Relating to Missing Children" (H.P. 854) (Presented by Representative ERWIN of Rumford) (Cosponsors: Senators ERWIN of Oxford, BUSTIN of Kennebec, and Representative STROUT of Corinth) (Ordered Printed)

Sent up for concurrence.

#### Marine Resources

Bill "An Act Providing for the Regional Management of Marine Fisheries Within the Territorial Waters of the Atlantic States" (H.P. 855) (Presented by Representative CROWLEY of Stockton Springs) (Cosponsors: Senator BROWN of Washington, Representatives MITCHELL of Freeport, and RICE of Stonington) (Submitted by the Department of Marine Resources pursuant to Joint Rule 24) (Ordered Printed)

Sent up for concurrence.

#### Consent Calendar

##### Second Day

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

(S.P. 106) (L.D. 321) RESOLVE, Approving the Standards and Regulations Adopted Under the Chemical Substance Identification law

(S.P. 234) (L.D. 596) Bill "An Act to Extend the Date for Determining the Maine Tree Growth Tax Law Forest Land Values to Apply in 1985" (Emergency) (C. "A" S-34)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence.

The Chair laid before the House the following matter: Bill "An Act to Create a State Committee to Deal with Post-Secondary Vocational-technical Education" (H.P. 839) which was tabled earlier and later today assigned pending reference.

The Committee on Education was suggested.

On motion of Representative Gwadosky of Fairfield, referred to the Committee on State Government, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act Regarding Workers' Compensation Commission Staffing" (Emergency) (H.P. 811) which was tabled earlier and later today assigned pending the motion of Representative Carter of Winslow that the Bill be referred to the Committee on Appropriations and Financial Affairs. (Committee on State Government suggested.)

On motion of Representative Carter, retabled pending his motion that the Bill be Referred to the Committee on Appropriations and Financial Affairs and tomorrow assigned.

The Chair laid before the House the following matter: Bill "An Act to Require Fingerprinting of Employees at Day Care Centers, Schools and other Similar Facilities" (H.P. 851) which was tabled earlier and later today assigned pending reference.

Committee on Human Resources was suggested.

On motion of Representative Paradis of

Augusta, referred to the Committee on Judiciary, ordered printed, sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Prohibit Radar Detectors" (S.P. 45) (L.D. 62) with the Minority Report of the same Committee reporting "Ought to Pass" on same Bill which was tabled earlier and later today assigned pending acceptance of the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative THERIAULT: Mr. Speaker. Members of the House: I hope you will support my Ought Not to Pass motion and I will try to give you a few of the reasons why the majority of the committee voted that way. First, there was absolutely no evidence available that a radar detector had ever caused an accident in this state.

Also, there have been at least 12 attempts in different states this year to pass this bill. As near as the Committee could determine there are four states that have such a ban on the radar detectors. Every one of them is now in litigation trying to determine if the state's really have the right to ban the detectors because there is question that states do have the right to ban these detectors because of the Federal Communication Act of 1934 that assured every citizen of this country the right to intercept the airways. Some of these detectors are so small and self-contained that they can be inserted in a shirt pocket. So, if this bill should pass, should we give the authority to our police officers to conduct body searches to find this detector?

So again, I urge you to vote against this unnecessary infringement on our right.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker. I hope that you will vote against the motion of the good Representative from Fort Kent, Representative Theriault and not accept the Ought Not to Pass. This legislature and prior legislatures have been concerned with highway safety. If there is any instrument that permits motorists on Maine highways to disobey the laws of this state, it certainly has to be a radar detector. I have heard, and you have too, so many excuses made about this simple little gadget that they put on the dashboard in an automobile or truck. Let's use a real good solid term, it is a lie. There is nothing in a radar detector for highway safety. There is nothing in there to find out where the police are so they can slow down and obey the law. They have used every excuse in the book. They have stretched credulity to the point of incredulity when they say that a radar detector is used for highway safety. It is used to break the law. We, in this chamber, are charged with enacting laws. It is very difficult for us here to say to the people of Maine, we want safety on the highways, we want to take the carnage of drunk drivers off the highways, but we will close our eyes and let you violate the speed laws, not just the 55 MPH laws on the turnpike, we are talking the 25 MPH speed laws in town, the 15 MPH speed law in school zones, with a radar detector you can violate the law any time you please any where you choose to do it.

Now, it was suggested a few moments ago that radar detectors do not cause accidents. That is very true. Automobiles do not cause accidents. Human beings cause accidents. Human beings with excessive speed cause accidents. We know, through every fact and figure, every report that has ever been done, that the higher the speed, the less time you have to react, the greater cause of injury, the greater chance for loss of life.

So, I would suggest to you my fellow colleagues in this chamber this afternoon, let's be serious about highway safety. Let's be serious about the need to enforce the laws. Let's be serious about supporting the police that we charge with enforcing the highway speed laws in this state and not say we will close our eyes to this misuse of the highways. If you can spend \$50 or \$75 or \$100, we will close our eyes and you can slow down for that few 100 yards while that beeper is going on and go by the police officer and resume your speed of 85 MPH or 75 MPH or 35MPH in a school zone or what have you. These are not just used on the highway by truckers or motorists, they are used any place because they have them on all the time.

So I would ask that you kindly vote against the motion of the Representative from Fort Kent and pass this bill so we can increase highway safety on the highways of Maine and protect our citizens, protect and enforce our speed laws and be good citizens.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Dillenback.

Representative DILLENBACK: Mr. Speaker. Ladies and Gentlemen of the House: I am one of those terrible people that has one of those radar detectors. I want you to know that probably going down through the turnpike it works once in a while but, basically, if any law officer wants to catch up with Bob Dillenback, all he has to do is follow me without his radar on. If I am breaking the speed limit, he will certainly catch me. But I'll tell you this, I slow down when I am going through communities because, every bank I pass, every warehouse I pass, every building I pass, that radar buzzer buzzes every time. I go by a place where police cars are parked and they're in the restaurant, the buzzer buzzes, so you drive very slowly through the towns. You come up over a hill on the turnpike and it starts to buzz and you slow down automatically. Maybe there is an accident over the hill. It is not a bad deal. I don't think it causes a great deal of problem.

I'll tell you what will happen if you outlaw these, you better outlaw the CB, because before I had my radar detector, the CB worked great. All you do is turn your CB on, every trucker, everybody on the road says, down on the hill, mile 45, there is a trooper sitting there. Watch your speed. Works very well. Works better than the radar detector does because that goes off every time you go by a bank. So I don't think there is any great problem with these things. I hope you use good common sense and allow the people to use these radar detectors.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Pouliot.

Representative POULIOT: Mr. Speaker. Ladies and Gentlemen of the House: I don't think anyone is trying to suggest here today that anyone who has one of these devices is bad. I think the issue here is one of consistent public policy. The federal government and our own legislature has appropriated large sums of money for highway safety relative to the enforcement of our speed laws. We are being asked to be consistent and to prohibit the use of a device which is designed for the sole purpose of breaking the law and circumventing our expenditures and efforts of enforcing that law. This is not a popularity contest. The issue is not whether or not you like the police or agree with their policies. It is a matter of highway safety, preventing injury and death caused by the speeding motorist. It is a matter of permitting the use of a device which is designed to assist the motorist in breaking the law.

During 1984, over one-third of the total accidents investigated in the State of Maine, involved speed as a major cause factor. 2,000 people were injured, 109 were killed. I was informed that a recent accident on the Maine Turnpike involved a motorist traveling 30 MPH

over the speed limit, who when alarmed by a radar detector, slammed on the brakes, went into a skid and forced a tank truck off the road and down an embankment. The point here is, the individuals with the detectors, drive without concern for the speed of their vehicles and, in some cases, without the concern for their fellow motorists. Before you vote, the question is, what are radar detectors designed and used for? We refer to them as fuzz busters. Also, what are we saying to our police officers if we don't pass this bill? Don't enforce the speed limit?

Also, I get to see a bill come before this House or before the legislature to remove the state police from sitting in their locations for radar check-up. To me that would be a fairer bill. If you remove the state police from sitting in what we call their speed traps, whatever, with their radar devices, it would be a much fairer way.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Soucy.

Representative SOUCY: Mr. Speaker. I would ask for a division.

Representative Gwadosky of Fairfield assumed the Chair to Act as Speaker pro tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker. Ladies and Gentlemen of the House: I really didn't intend to rise today and debate on this. I don't think the issue is important enough to debate really. I think what may be important here is the fact that perhaps we are setting the pattern for what this legislature of the 112th is going to be doing this year. I know just in my Committee and a few of the other bills that I have noticed, there seems to be a list of things you turn on your lights when it gets dark, which I think everybody knew enough to do anyway; you can't ride a motorcycle without a helmet; you can't drive in your car without a seat belt; you can't have a fuzz buster; you can't smoke in certain areas; — these are all very nice things but I think we are sort of setting the pattern — right now, the list of things that we have that you can do and you can't do are longer than what Moses brought down off the mountain. I think it is getting a little too much. I don't believe people sent us up here to get involved in some of these things that we are getting involved in.

I would just like to leave you with a quotation, one of the few things I remembered from school. This is not some revolutionary or some radical. It is from the Supreme Court Justice, the Chief of the United States Supreme Court. This is what he said and I quote: "the right most valued by civilized man is the right to be left alone".

The SPEAKER PRO TEM: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker. I wasn't going to get up and say anything but the good friend in front of me kind of urged me on a little to get up. First thing we should do, if we are going to take care of everything for safety, we should take the cruise control out of your car. Two-thirds of you people that come to work set your cruise control on 62. I don't want to get caught going any faster than that. As far as the CB, there isn't a car I don't think, that doesn't know where an officer is every minute of the day. I got a police scanner in my car. I even know what they are doing in Orono. I know what they are doing in Scarborough. I'd like to give you people a ride over to the Roseland where we go every day for dinner, they say you don't, when that buzzer goes off, look at the speedometer. I can assure you that I can take any one of you persons over there to the Roseland to dinner with us and that buzzer will go off four or five times. The first thing they do is look down at the

speedometer. There are no cops around. I think it helps all of us to have it in the car. I have one in my pickup. I been caught three or four times for speeding. I got caught even before the buzzer goes off.

So I am saying today, I hope you will take this thing and shove it down the river somewhere along with Mr. Vose's smelts so we can get on with our regular business.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as being one of the members on the Minority Report from the Transportation Committee. I would like to speak to some of the arguments that have been made against the bill to outlaw fuzz busters. First of all, it is the FCC ruling that some people have brought up about the fact that the government said in 1937, when the bill was passed, that everyone had the right to use the airways to communicate over and no one could interfere with that. I think that if you take the case of what we are talking about here, it is not communication that we are talking about, it is the case of somebody using the airwaves to violate the law. No state that has passed a law against fuzz busters has had to repeal that law. Another argument that has been brought up, the CB's. This is the same thing as having a CB in your car. Well, I say to you again, that if you have a CB in your car, there are other uses that you are using that CB for. With a fuzz buster, what you are using that for, why you bought that, is to break the law. There is a big difference.

Now, another argument that has been brought up, we should do away with cruise controls, we should do away with those. Again, cruise controls aren't necessarily used to break the law. Second, which I think is even more important, is the idea that if you are using a cruise control, you can be stopped for speeding. The idea behind having a fuzz buster is that you are not going to be stopped if you are speeding. There is a big difference there. Another one that I think it is important for us to realize is that a lot of people say it is not enforceable. It is not enforceable. This law is not enforceable. I think if we think of a lot of laws that we have that are on the books today, we know that a lot of them are very difficult to enforce but we know they are wrong and that is why we have laws, because we know they are wrong. We know that we should be setting an example down here by outlawing certain things and setting an example back home, that when something is wrong, we are going to say it is wrong. I don't think we are doing that here today if we vote this motion down.

I would like to also bring up an example that was used and I read about in the papers when it was passed here a while back. That is drug paraphernalia. The legislature itself went on record and said that we should outlaw drug paraphernalia because it is equipment used for or could be used to break the law. And we outlawed it. This is the same type of thing. We have equipment that is being used to break the law. We are telling people that, yes, you can use that equipment to break the law. I don't think we should be doing that. I think we should be setting examples as we did before, and when we have equipment that we know people are using to break the law, we should say, no, you can't do that. That is why I think we are setting a bad example for back home and to anybody else when we say we can use this equipment. I hope that you will vote to go down with this motion and accept the Minority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker. Ladies and Gentlemen of the House: The boy

gave a good speech and I applaud him, but I was talking to Colonel Clark the other day, and I asked him, when you get picked up by radar, if you are going along with your car and a truck comes up behind you, who do you think gets picked up first? I said, doesn't the biggest object get picked up first? He said, yes, so I wouldn't call the radar very good either. I think that lies a little bit.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gorham, Representative Hillock.

Representative HILLOCK: Mr. Speaker, Members of the House: I personally don't have a radar detector in my car but I really have found good use for them. My first exposure to a radar detector was in my headset, flying a fighter, and when it went off it meant a missile had locked onto you. So it certainly got my attention. We argue this issue and I think that we are self-serving here — we know that it is illegal to speed. I have been fortunate enough to be picked up for speeding and I know what it is like to come under harms way for breaking the law. I don't wear a black hat. We are setting a serious precedent here by saying that it is okay to have implements to use in breaking the law and defending ourselves. What are we going to do here when they complete the development for a bronchial breathalyzer apparatus that can be used to nullify the OUI breathalyzer test. Are you going to come here and say, I think this is good and we'll just put this in the same category as the radar detector? The radar detector is used to skirt the law. If we are to back up our law enforcement people in the State of Maine, then we should accept the Minority Report and ban the radar detectors.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bethel, Representative Mills.

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

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is the motion of the Representative from Fort Kent, Representative Theriault, that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker. I request permission to pair my vote with Representative Small of Bath. If she were here, she would be voting no and I would be voting yes.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Heglund.

Representative HOGLUND: Mr. Speaker. I request permission to pair my vote with the Representative from Portland, Representative Beaulieu. If she were here, she would be voting no and I would be voting yes.

The SPEAKER PRO TEM: The pending question before the House is the motion of the Representative from Fort Kent, Representative Theriault, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### Roll Call No. 21

YEAS:—Aliberti, Armstrong, Baker, A.L.; Begley, Bonney, Bost, Bott, Boutilier, Bragg, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carter, Cashman, Clark, Connors, Connolly, Cote, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Duffy, Erwin, Farnum, Foster,



Greenlaw, Hale, Hayden, Higgins, H.C.; Jackson, Jacques, Jalbert, Joseph, LaCroix, Lander, Lawrence, Lisnik, Lord, Macomber, Manning, Martin, H.C.; Matthews, McCollister, McGowan, McHenry, McSweeney, Michael, Michaud, Moholland, Murphy, E.M.; Nelson, Nicholson, Nickerson, Parent, Pines, Priest, Randall, Reeves, Rice, Ridley, Rioux, Rotondi, Ruhlin, Scarpino, Sherburne, Smith, C.W.; Sproul, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammara, Tardy, Telow Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilston.

NAYS:—Allen, Bell, Brodeur, Carroll, Cooper, Drinkwater, Handy, Harper, Hichborn, Hickey, Higgins, L.M.; Hillock, Holloway, Ingraham, Kimball, Law, Lebowitz, MacBride, Masterman, Mayo, McPherson, Melendy, Mills, Mitchell, Murphy, T.W.; Murray, Nadeau, G.G.; Paradis, E.J.; Paradis, P.E.; Paul, Perry, Pouliot, Richard, Rolde, Rydell, Salsbury, Seavey, Simpson, Soucy, Stetson, Warren.

PAIRED:—Beaulieu-Hoglund; Foss-Small.

ABSENT:—Baker, H.R.; Carrier, Chonko, Coles, Gwadosky, Hepburn, Kane, Nadeau, G.R.; O'Gara, Racine, Roberts, Smith, C.B.; Taylor, The Speaker.

92 having voted in the affirmative and 41 in the negative with fourteen being absent and 4 paired, the motion did prevail.

Sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Marine Resources on Bill "An Act Concerning the Distribution of Atlantic Salmon Smolts and the Conservation of Atlantic Salmon" (H.P. 30) (L.D. 31) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 836) (L.D. 1180) with the Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill, which was tabled earlier and later today assigned pending the motion of the Representative from Stockton Spring, Representative Crowley, that the House accept the Majority "Ought to Pass" Report in New Draft.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker. I request a division.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker. Ladies and Gentlemen of the House: I would like to point out to you that this is the third attempt, the bill before you, to sidetrack the state's Atlantic Salmon restoration program. The program brings in about four and a half to ten million dollars a year into our state in tourism and related industries. It has been presented through this bill that it is a job creation bill. These millions of dollars that come into the state also create jobs. They create jobs for persons in Ellsworth in the motels. They create jobs for the person in Aroostook County who makes a fly rod, a fishing rod. They create many, many jobs in the state. They don't limit those jobs to Eastport.

Maine is the only state in the Union to offer quality Atlantic Salmon fishing. The only one in the entire country. People come here, not only from cross country, but from around the world, to enjoy this sport fishing. When they do, they spend a lot of money. I think the quality of this fishing is maintained, that money is spent in the State of Maine due to the quality of that sport and due to the fact that we do have those smolts to release and maintain the quality of that fishing for all the people. The State of Maine has an Atlantic Salmon management program, a program that clearly shows the need for more smolts, not less, and this bill would take smolts from that management program and donate those to private industry. And I do use the word donate. This bill would take that precious public resource and divert it from

the public good for which it was dedicated by this legislature. It was dedicated by this legislature and diverted to the use of private industry. This is not the first time that a bill like this has come before this legislature. Two years ago it was brought before this legislature as a one time only, one shot deal that would be paid back in full. There has been no pay back made. There has been no good faith pay back even attempted from that loan and I think that if we go ahead now and so-call loan these smolts we are, in fact, granting the public resources of this state to private industry and you can kiss those smolts goodbye because the second one is going to be exactly like the first deal, do not anticipate any pay back. There has been no good faith attempt to pay it back in the past and you can be assured there will be no good faith attempt in the future.

I would ask that those of you who would give consideration to the welfare of the State of Maine as a whole and not the limited geographical area of our state help protect our resources in general and vote against this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker. Ladies and Gentlemen of the House: I stand here hat in hand and concur wholeheartedly with the Representative from Brewer that the enhancement or the restoration of the Maine Rivers with salmon definitely create jobs. There is no question about it. Do they help the State of Maine? They most certainly do. I dispute the fact that there has not been an attempt of a good faith pay back.

I will read from a letter written to me on that basis from Ocean Products. OPI, that's Ocean Products here on in in this debate, has attempted to start to pay back its debt to the Atlantic Sea Run Commission for the 100,000 smolts received in 1983. I will tell you about that particular bill shortly. One million fertilized salmon eggs were offered in the fall of 1983. The Salmon Commission turned them down for lack of hatchery space to hold them. In May of 1984, approximately 70 salmon smolt fry were offered as partial pay back. They were turned down. Unfortunately, we were told they were too weak to move, that is not move around, but simply transfer from one place to another. OPI has set aside 600 brood stock from the Green Lakes strain to repay the Salmon Commission. We expect to have approximately two million freed up fry available in April, 1986. A total of 5,000 must be supplied in repayment for 100,000 salmon smolt.

First off, let me tell you what a smolt is. A smolt is a six inch salmon weighing about 2 ounces.

Second, let me tell why I am standing here hat in hand. About two years ago, I was sitting here in this House, there were two gentlemen ready and willing to debate this issue, we had a short recess, I and the two gentlemen were called to the rostrum by the Speaker. I was asked how important was this bill to me? I said, extremely important. It means a lot to my community. They said, well what's the deal? It means a lot to my community. They said, well what's the deal? I said, it is a one shot deal. I said it, I said it to the Marine Resources Committee and I meant exactly what I said. There were others on the Marine resources Committee that were there at that time that could verify that. But, however, Mother Nature, unpredictable as she may be, created a 90 knot gale on the Friday after Thanksgiving in 1983, which one of the pens where the adult salmon were being raised, was actually broken up. 30,000 four pound salmon went to sea. 30,000. What is the value? Probably a half a million dollars. It is a devastating blow to a firm like Ocean Products, devastating. They asked me in 1984, would I be willing to introduce a bill of that nature? I said, I just can't do it. I said, can't you get them some place else? They made

a deal with Canada for 100,000 smolt. That was great. However, the biologists said that they were not acceptable because they were diseased and had a detrimental effect on trout. So therefore, not available. You know, if you stop and think about it, money is no problem. It isn't getting the money. It is smolt. A fish, a salmon, a small salmon. That is what's holding us back. Now, since that time, Ocean Products has negotiated and put a down payment for 80,000 smolt from Scotland. They need those smolt to continue the operation. The investors from New York are waiting at the present time to find what this Legislature is going to do on this bill, to see whether or not it is worthwhile to invest a million and a half dollars in Eastport, population less than 2,000, to see whether or not the people in the State of Maine are willing to invest in aquaculture which enhances the restoration program which is clearly indicated by an agreement made with Ocean Products. I would just like to read a little bit of that. "Witness, whereas this is the agreement between the United States Fish and Wildlife Service, Ocean Products Inc. and Maine Atlantic Sea Run Salmon Commission. Witness that, whereas the service has a strong commitment to the restoration of Sea Run Atlantic Salmon in New England's historic salmon rivers and such a restoration effort will be enhanced by an increase in the availability of juvenile Atlantic salmon of suitable strains for stocking in the historic salmon rivers within Maine. This service pursuant to the Fish and Wildlife Coordination Act, 16 USC, Paragraph 661, is authorized to provide assistance to and cooperate with public and private agencies in the development, protection, rearing and stocking of all species of wildlife resources thereof and their habitat." I will go on because it is to the last whereas, "The service has determined that the provisions of this agreement satisfies the requirements of 16 USC757A and will enhance the status of Atlantic Salmon in the State of Maine." That tells me and tells the people of this Legislature that the United States Fish and Wildlife Service feel that aquaculture will enhance the restoration of the rivers because it makes more smolt and more fry available to the restoration, to stocking.

Now, let's look at the bill itself. What does the bill do? The bill does not say that we are directing the Atlantic Sea Run Commission or anybody else to give or to lend. In this case remember we are talking about lending because there is a pay-back provision. To lend any Atlantic Sea Run Salmon smolt to anybody, it says, and if you will be kind enough to read . . . as a matter of fact don't bother, I'll read it to you, it says, "Allocation permitted: if the commission finds that an applicant for an allocation for state controlled smolt has made all reasonable efforts in good faith to obtain smolt from other sources and has not been able to obtain sufficient smolt from these sources to meet the applicants needs, the commission "may", it does not say shall, it says may, allocate for aquaculture purposes Atlantic Salmon smolt produced or required by the state each year, the commission may allocate an amount such that the sum of the amount of the smolt allocated by the commission and those obtained by the applicant from other sources does not exceed 15 percent of the total amount of smolt produced or acquired by the state in that year. Written contract compensation — any agreement between the commission and other public or private parties who transfer ownership of smolt under this section shall be in the form of a written contract and shall provide fair compensation.

Three. Reduction in smolt distributed to rivers. If an allocation of smolt, under this section, requires a reduction in the numbers of smolt distributed to the rivers in the restoration program, the reduction for each river shall be proportional and shall be based on each rivers original plan share of the total number

of smolt distributed.

Repeal. This section is repealed on January 1, 1988. It is a sunset provision. Now does it say anywhere that they must know? They have to run the gauntlet of the commission. They also have to have permission of the United States Department of Fish and Wildlife and they have to pay back. Now when we are talking pay back, is it a gamble? Of course, it is a gamble. If you lend money, you will lend anything. If you lend a guy five bucks, that is a gamble. Maybe he will pay it back and maybe he won't. But if it works, if aquaculture works, we will get the smolt in this case and in the last agreement that was made on a basis of prime rate plus two percent. In other words, 112,000 smolt in the case of ten percent prime rate or an equivalent thereof in another form which, in this case, five million fry, which is a smaller fish.

What does it mean? First off, will this have a devastating effect on the restoration program? Hardly, hardly. Possibly they may want to borrow up to 75,000 or 80,000 smolt. That was the figure that was presented at the hearing. So what does that do to the restoration program in the event that the very worst thing happens that they have to borrow all of the smolt? What happens? Well, let's look at it. I am going to use the figure 75,000 because that happens to be the figure we actually come up with. In 1984, there were 765,000 smolt put into the rivers of Maine. In 1980, the second largest stocking, there was 681,000 smolt put into the rivers of Maine. If this bill, at the very worst, that they had to lend that 75,000 smolt in 1985, there will be 677,000 smolt put into the rivers of Maine which is the third highest stocking in twenty five years. Does that have a devastating effect upon the restoration of the rivers? Hardly.

What are we really talking about here? What does this do for the City of Eastport? Let's put the scales out. Let's put a scale here and let's put a scale to the left. What does it do for the fishermen? Well, let's see, does it cost many jobs? No. It doesn't cost them any jobs. Does it hurt in the restoration program? No, as I told you, third highest. What is it really doing to them? Well maybe there are some salmon — by the way, in case you are interested, the rate of return of these smolt is one half of one tenth. That is what we are talking about. Now, that is not too much. Now let's put the other side of this scale. What would this do for the program if aquaculture works? It would enhance the program. It will pay back plus interest and once they pay back they will be in a position, as the United States Fish and Wildlife Service says, to help and to contribute more to the restoration of the program. So in the long run, it is going to help.

What does it mean to my home town of Eastport? That is where I come from, that is where my heart is. It means 24 permanent jobs. It means 14 part-time jobs. A payroll of \$500,000 a year. It means that this firm can buy 5,000 tons which they have been buying from the local fishermen, it means that they have been buying \$110,000 worth of fish meal from Rockland.

They are paying taxes to Eastport and they are presently paying back a UDAG loan of \$350,000 and they are going to be paying back a loan of around \$600,000 to Washington County that will be in a revolving loan account. A UDAG loan, as you all well know, has to go back into economic development. 1900 people.

Now, I am going to tell you something, I have got two daughters and five granddaughters and I have guns and I have fishing rods and everything else. I am trying to convince the girls that they ought to go with me hunting but they are not too interested. So, I am a little partial to boys. I got a kid that lives next to me, his name is Ricky Cox, his father works for Ocean Products, this kid is six years old, he is taking a liking to me. When I go downtown,

I buy him something down there, I buy him a bat, a ball or you name it. His father works for Ocean Products, he is a hard working guy. The guy works part-time, he clams, he goes out and cuts wood, he does everything, you name it, he does it. But come Christmas time or Thanksgiving time when this kid wants his turkey or wants to have Christmas, what do I tell him? Oh, no, you can't have that. You know why? Because we want to put salmon smolt in there for the fishermen to catch. Don't worry about it, let those guys go out there and fish, that is what we want them to do. You don't need to worry about that, we'll give you some food stamps or something. Well, that is what I am fighting for. I am up here talking to you people who recognize the fact that we are talking jobs and economic development. That is what it means to my town. It is very important to me and I hope that you will weigh the scales, weigh this side and weigh this side and I will guarantee you the benefits would be right, not only to the economy of Maine and particularly to the economy of my home town and restoration of the rivers would far outweigh anything that you can vote here today. You vote against this bill — remember this permissive bill, because these very same people who are going to be up here today are going to get their shot again because they have to go to hearings, they have to convince them that's where the smolt is going to go, part of it. Remember that, it is permissive, that is what we are asking you today. I am asking you to put the authority within the commission to allow them to allocate for aquaculture purposes an amount not to exceed 15 percent of total allocations. Thank you very much.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Stonington, Representative Rice.

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak in opposition of L.D. 1180. Members of the Marine Resources Committee received copies of a letter dated March 15, 1985 from the Natural Resources Council of Maine. It stated in part, "The Board of Directors of the Natural Resources Council of Maine voted at its regular monthly meeting on March 8 to oppose any action which would result in diversion of smolts from the Atlantic Salmon Restoration Program. It further stated that the diversion of resources from a public purpose to the aid of a private business is simply improper. I sympathize with the plight of Ocean Products to secure salmon smolt for their operation in Eastport. But since the smolts appear to be available on the open market, Ocean Products should take advantage of that opportunity and buy the smolts. A suggested compromise was rejected whereby the state would provide smolts to the extent of mortality suffered transporting smolts from Norway or Scotland that had been obtained on the open market."

I strongly support the salmon fish farm concept in Maine. One site in my House District is being considered by a Norwegian firm for development of this state of the art aquaculture. But the salmon smolt to begin this operation and for Ocean Products must come from the open market. The Atlantic Salmon Restoration Program being conducted by the Maine Sea Run Salmon Commission and the United States Fish and Wildlife Service was established to benefit the rivers of Maine, not private corporations.

I urge you to vote against the "Ought to Pass Report".

The SPEAKER PRO TEM: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: I rise now with heart in hand, I rise in firm support of this piece of legislation. Now, this doesn't have any specific effects in my district or in my town but if one sits and looks at the overall good of the state

and we are periodically requested or periodically put in positions where one has to look at what is best for the state as a whole and put aside what our personal parochial interests happen to be.

Now, I have been standing here listening to the gentlewoman from Stonington and the gentleman from Brewer tell me that they didn't feel that the state should provide a public resource to a private industry. Apparently those two Representatives have forgotten that on two bills that I put in previously involving public resources used in aquaculture on private property, they both supported that concept when they voted those bills out "Ought Not to Pass." The question now becomes one of continuity. If that is a philosophical point, you should be in support of this bill. If it is not, it is a parochial issue and you are not looking at the general good of the state. But aside from little inconsistencies like philosophical flip flops, let's look at what Ocean Products or any other salmon aquaculturists who uses a pen aquaculture can provide to this state. Right now, and most people here are aware of my concern with aquaculture, there is potential conflict with traditional fisheries in both market and usage, I probably know as much or more about aquaculture as any person who is standing or sitting in this body. This one particular form of aquaculture, the raising of salmon, be they raised and released as is occurring in Casco Bay or pen raising that is occurring in Passamaquoddy Bay is probably the singular most compatible form of aquaculture with all of the traditional fisheries processes and fisheries marketing techniques that we currently have in existence in this state. It blends well, it is a good compliment to our traditional industry, it is a new product, it will open up new markets throughout the state, throughout the country and will provide many more than the 24 jobs that the gentleman from Eastport is talking about. It will provide jobs in marketing, it will provide jobs in shipping, it will provide jobs in advertising. So, that is what we are dealing with initially.

Now, the Natural Resources Council of Maine in this letter that was just presented — I don't know who provided them with their information, I don't remember them being at the hearing we had on the bill, I don't remember them testifying but I do know very well that no member, be it a private member or be it a member of the executive council of the Natural Resources of Maine, ever contacted me or anyone that I deal with regularly and the people supporting this bill that I know of to find out what both sides of the story was. Now perhaps they have contacted Representative Vose or one of the signers of the "Ought to Pass" Report, but to my knowledge, they haven't. To be quite frank about it, if one looks at the entire attachment that that letter was connected with, if that was the sole information that I had involving this bill, I would be in opposition to it too.

Let me go through this now. Most of you should have gotten on your desk a letter or a packet dated March 25, 1985 from the Maine Council of the Atlantic Salmon Federation. Now, we are all familiar with political processes and we are all familiar how people — shall we say highlight certain areas and downplay other areas in order to get their own limit actually, as to what is acceptable highlighting and what isn't. Now I won't argue the fact that everything in here is true because everything in here is true. I will say that that particular piece of paper is one of the most blatant over-attempts to present a censored selective presentation of the facts in order to create an image other than what is reality. I am going to go through this point by point and we will deal with it point by point and then we will find out what is going on.

Paragraph 1, Bad Timing-A. Restoration efforts are behind the goals of the Salmon Com-



mission and those of the U. S. Fish and Wildlife. I will accept that, they are. It is not the fault of Ocean Products, it is not the fault of the Salmon Commission, it is not the fault of U. S. Fish and Wildlife. There is a condition going on in the ocean right now that nobody knows the cause of. We are getting, annually, decreasing returns from the smolts that are free released. It is not only happening in this state, it is happening in the commercial fisheries in Scotland and in Norway and off Iceland and in Newfoundland and in mainland Canada. There is some effect, whether it is an animal effect, a temperature effect, a biological effect, it is decreasing our returns. Well, Representative Vose quoted five tenths of a percent. Well, that was for the year 1983. For the year 1984, it was four tenths of a percent which was the third year in a row we had a decrease in return. So, yes, we are behind schedule; yes, we are not where we would like to be. The reason we are there has absolutely nothing to do with the initial one time loan that we thought we were making two years ago or this current proposal for another loan right now.

Public pressure has already diverted fish from the program in the Washington County rivers where the biologists feel they are not necessary. Once again, we didn't have any biologists testify they weren't necessary in Washington County. What we did have was a real concern particularly from the City of Calais on the St. Croix River that they weren't going to get any salmon. They felt they had been shorted as it was. They had been getting one percent or so of the fish totally available, the lions share of them going into the Penobscot River. When the City Council of the City of Calais was informed of all the facts and all the information involving this bill, they came out and sent a letter to every member of the Marine Resources Committee, as long as the conditions of this bill are here, as long as it is 15 percent taken equally from all the rivers, maximum, as long as it is permissive and as long as it has a two year sunset, all of these things that this bill has, they support it.

Let's go a little further here. Now angler sacrifices, realizing the plight of the salmon, anglers have reduced their bag limits from five fish except on the Penobscot where it is one fish and on the St. Croix where is no fish. The drastic cut-back in the Penobscot was needed to allow more fish to reach the Veazie trap for brood stock. Anglers do not want the results of their concessions to go to Ocean Products Inc. Fine, I agree, the anglers have made those concessions. What concessions have the anglers asked for from the commercial fishermen so they could get the stock restored?

I am a commercial fisherman, my interests are for the commercial fishing industry, I am probably known as the strongest supporter of the commercial fishing industry. Two years ago, I stuck my neck out with my own supporters because I felt that for the good of the state we should not allow the harvesting of the Atlantic Salmon in the waters outside of which the sport fishermen have control, outside of which Fisheries and Wildlife have control in the state waters and the SCZ where the Maine State Regulations occur. The commercial fisherman can't take one salmon anyplace he can put his boat. He is allowed an incidental catch if he catches one while in the process of fishing for something else but he can't market it, he can't sell it. The sports fisherman, as long as he has got a tag on that fish, he can even go and sell it. So, yes the sports fisherman has made a concession, the commercial fisherman has made a bigger concession. Now it is about time that we get to the third aspect of the industry and both sides make a further concession to let the aquaculturists exist.

I am getting a little wound up, which I probably shouldn't do and we could go a lot further with this and I could stand here for another 45 minutes probably and go on with

this, but I just want to look at one more thing in here because there is a real serious allegation in this and that is on the last page under nine. It says: "U. S. Fish and Wildlife Service comments on OPI's operation. Having toured OPI's facility, members of the U.S. Fish and Wildlife Service filed a report on October 6, 1983 in which they concluded the company appears to have the finishing end of the commercial production cycle quite well in hand. However, that part of the operation is totally dependent on the adequate supply of smolts. It appears that OPI may not be fully prepared for the pitfalls that probably await them in the freshwater rearing of Atlantic Salmon on open water supplies. They are trying to move far and fast in the hazardous fish hatchery operations which particularly with Atlantic Salmon are well documented from past experience."

OPI, in particular to Deblois Hatchery, has made a concerted effort to upgrade that hatchery, to get it in good operating condition, to make it good both health wise and parasite free and good production wise. In the past year, the U.S. Fisheries and Wildlife has inspected it twice — they have given it a top bill of health. In the next year, it is scheduled two more times — if things continue as they are, they will also get a top bill of health two more times, making the Deblois Hatchery the only certified hatchery for salmon in the State of Maine.

One final thing — there is a little thing on this that says, if this is such a good spot to raise salmon, if OPI goes down the tube, someone else will surely come in — that is true but it is not true, the only place that someone else can come in in all likelihood that is going to get salmon, smolt, is from the State of Maine. If this state shows, by refusing to grant the Commission permissive authority to give the smolts, if they show that they are not interested in cooperating with a newly established salmon aquaculture operation, what possible reason would there be for another one to try to relocate? Not only would he have to have a market to develop but he would have labor problems and he would have to be fighting the state that he goes into. It doesn't make common sense.

This bill, the way it is written, is good for the economy of the state, it is good for the Maine industry, it is particularly good for Eastport — those aren't my particular concerns, I don't have to get elected there — it is a bill that deserves careful consideration and it is a bill that deserves your support and I would certainly hope that you would do that.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: First of all, let me congratulate my good friend from Eastport, Representative Vose, who did a masterful job and it is pretty hard to disagree with some of your friends but sometimes you have to. There may be many of you wondering what I am doing up on my feet. We don't have any Atlantic Salmon in the town of Winslow — someday we will but I can wear many hats — one of them happens to be that I am the Chairman of the Atlantic Sea Run Salmon Advisory Council. I took the liberty of polling the members of the council. I didn't think it was necessary to call a meeting so I called them by telephone. The council is composed of nine people from throughout the state. I managed to contact two-thirds of them and posed the same question to everyone of them. The resounding answer was, no way on this bill. This bill is nothing more than class legislation and deserves the deep six.

My good friend from Eastport spoke of another gentleman in his opening arguments. Let me tell you, ladies and gentlemen, I know who that gentleman was. He is speaking to you right now. I was set not to support the original bill two years ago and I will tell you why. We

talk about economic development — I also happen to be President of the Winslow Economic Development Corporation, I also happen to belong to the Special Task Force on Economic Affairs for the Eastern Region Council of State Government and I can put on another few hats but I think you get the point. I know something about economic development.

Two years ago, the people who were looking for 100,000 smolts was quite the reverse of what they are asking for today. Two years ago, they needed those 100,000 smolts to secure the project. Without the smolts they could not get any loans. Today, they need another 100,000 smolts to get additional money. How long can this go on? Two years ago, this project was put together and there is a lot of misinformation being circulated, I am not going to pinpoint any particular one, but one was put on your desk just recently, — two years ago, they put this project together, you can start counting, money was borrowed from SBA, money was borrowed from the CDBG, Community Development Block Grant, money was borrowed from UDAG, money was borrowed from the Eastern Maine Development Corporation, 100,000 smolts from the State of Maine and they finally got some money from a bank. They guaranteed us a one shot deal — you know, I do have a heart for economic development, I understand jobs, I understand hardship, and I relinquished two years ago. I said, okay a one shot deal, I won't oppose it.

Let me tell you something about economic development — just take the lowly Atlantic Salmon, it requires no upfront money, no big loans from SPA, UDAG or CDBG, it is a stock that is available in the State of Maine. My constituents spend money every year going to Canada or going to some other areas to fish for Atlantic Salmon. The latest figures on the value of an Atlantic Salmon is \$1,000 a piece, a thousand bucks. When you talk about economic development, there it is...Doesn't that create jobs? I submit to you that it does create jobs and you don't need upfront money. You don't have to risk anything, just make sure they have a chance to swim in the rivers and spawn and reproduce. Not just in one area of the state but across the entire State of Maine. That is economic development in its simplest form. Take advantage of what you got in your back yard. The Atlantic Salmon is related to the second largest industry in the State of Maine, which is tourism, and strangely enough, the money to rear these salmon come from a tax imposed on sporting goods equipment, on the very people who buy sporting equipment, which is part of the money that is used to provide these restorations programs. Some of the other money comes from the federal government, which is an attempt by the federal government to restore Atlantic Salmon, not just in Maine, but along the eastern coast — not just along the eastern coast but to bring a specie that is almost on the endangered list back to where it should be and that is why, incidentally, Representative Scarpino, that they stopped commercial fishing of Atlantic Salmon.

I could rebutt a lot of statements that were made, point by point. My good friend from Eastport tells you that this is a lending, not a grant. Let me point out to you what it said in the original contract — the original contract, which I have, states that OPI will provide, through the Cooperative Salmon Restoration Program in Maine, one million non-feeding fry per year for five years under the following stipulations — they haven't provided one, not one. The smolts that they did attempt to give to the state were in such weak condition that the Chairman of the Sea Run Salmon Commission, Glenn Manuel, and the Commission, refused to accept them. Let me quote from the letter: "the salmon at Deblois were in very poor and weak condition on June 4th and it was apparent that they would not survive the rigors of travel and subsequent stocking;

therefore, we could not accept the fry at that time."

It has been stated that this is going to be a tremendous advantage to Eastport, 40 jobs. Let me read from the Restoration Program that has just been adopted — hasn't even had a chance to be put in force and here we are going to take from the sportsman and we are going to give to private industry on the loan basis — now they haven't made good on the first loan but, like we have been told, when you make a loan, there are no guarantees — let me just state that if I have vehicle that is sinking in quicksand, I am certainly not going to put another one in there to pull it out because they will both sink.

Let's get back to the Restoration Program that has just been adopted — we only have 752,000 smolts for 1985 so to make the Restoration Program operate properly, we only need 2,293,000 smolts, that is all we need but we only have 752,000 — now out of that 752,000, we are going to take 112,000 and let OPI have them, 15 percent. The 752,000 smolts are scheduled to be stocked as follows: the Dennys River, 5,000; East Machias, 5,000; Machias, 5,000; Pleasant River, 4,500; Naraguagus, 5,000; Sheepscot, 7,500; Penobscot, 600,000; St. Croix, 65,000; Saco River, 5,000; Union River, 50,000; not just in one area but everywhere in the state. The Kennebec is not mentioned but its time will come.

As I said before, this is nothing more than class legislation and it should not be allowed to continue. We have another firm, as has been pointed out, that is in the process of coming to Maine. They are going to start three aquaculture farms in raising Atlantic Salmon. If they have problems, it is only fair if you are going to allow this to continue, for that firm to come to the state and say, hey, we need some smolts too. Where is it going to stop? The only thing to do is to give this bill the deep six where it belongs.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Winslow, Representative Carter once again has made a good presentation; however, needless to say, I disagree with it.

We are asking, in this bill, you to give the authority, once again, to the administrators of this program to lend to Ocean Products or anybody else for that matter up to 15 percent of the available smolts for aquaculture purposes. The very people who started this program has stated, in the agreement as I read before, that if successful, they will enhance the program. They will pay back the smolts, if successful, and once again, I cannot guarantee anything. If they are willing to gamble, the authorities that govern this program, that is what I rest with. No way is this legislature authorizing or directing that these people lend the salmon-smolt to these people.

Yes, we are talking about 752,000 smolts and I believe that I said that. However, should the smolts be lent, what is the worst thing that could happen? There would still be 677,000 smolt, which is the third highest in the stocking program. Let's find out what Ocean Products is going to do as far as finances are concerned. They just recently negotiated a 20 year lease for the Deblois Hatchery. They intend to put \$900,000 into that hatchery — for what purpose? To raise smolts, to raise fry, so they can take them down for aquaculture purposes. If successful, the rivers will have more fry than they know what to do with. The salmon fishermen are going to be so happy that they are going to running all around the place having highballs at night. They will vote against the happy hour bill even because they are going to be so happy with all the smolt they are getting back and all the fry. I want to see their joyous faces two years down the pike when all this materializes. I am being just a little bit

facetious and I shouldn't be. It is a very serious thing with me and it is a very serious thing with my friend. He is right, he was one of the participants in which we did, in fact, go down to the speakers and I was scared to death of him and that is the truth because at the time when we wanted that, I knew there was an emergency preamble and if he got up on the floor and really started nailing me, he and a certain friend of his, if you really want to know, he sits right behind him, I figured, boy, I sure don't want to see these guys and I did, in fact, say that it was a one shot deal with me at that time but I am telling you — how the dickens did I know or anybody know that we would lose — I want to be sure that we get something straight too — let's say lose, Ocean Products lost 40,000 four pound salmon. My good friend, Lou Flagg a biologist with the Marine Resources Department for 17 years, as a result of my questions, — I said, where are the salmon going to go? He said, as an educated guess, they are going to come back to the cove and then they are going to stay there maybe a couple of days, then they are going to search for fresh water and where is the nearest fresh water? You got it, St. Croix River or perhaps the Dennys River, I hope that most of them go to the St. Croix River because it is a bigger river — Dennys River certainly can't take that many coming back so it really is not a big loss, at that time, a 100,000 smolt, the rest lost to the restoration program, they did, in fact, hopefully, get some back.

I really tried to pinpoint him down exactly as to when the salmon would come back to that cove because to be perfectly honest with you, I wouldn't mind getting myself a little dinghy and a line and learn to fish. I am scared to death to fish for Atlantic Salmon because I probably will get hooked on them, that is for darn sure, because it is a beautiful, wonderful fish and I go along with that. I want you to understand something, I sponsored the bill along with Representative Paul Jacques, Representative Ed Kelleher, Representative Carter for the tag system on the Atlantic Salmon because I want to protect them myself.

I hope that I really have told you that it is a lending process. This is permissive legislation and I hope that you will support the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Franklin, Representative Connors.

Representative CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to read briefly the cooperative agreement that we had between the Federal Fish and Wildlife and the State of Maine and it was entered into September 29, 1980. It declares in Article 1A, "that the Service agrees to permit the Green Lake and the Craig Brook National Fish Hatcheries to the production of Atlantic Salmon to be used for the rehabilitation, restoration and maintenance of sea run salmon populations in the Maine Rivers." One could certainly make a sound argument, however, that use of the federal allocation by private aquaculture interests for sale at a profit does not meet the spirit nor probably the letter of the law.

I have a couple of problems here, questions, and probably a little insight and I would like to you to consider these. Would we be violating a business transaction between the state and OPI if we authorize another shipment of smolts to the OPI? This was supposedly a one shot deal. Doesn't the wording of the current agreement between U.S. Fisheries and Wildlife and the State of Maine say that Atlantic Salmon smolts raised in the Maine State Hatcheries are to be used solely for the restocking and reintroducing of Atlantic Salmon to Maine rivers? The State of Maine has already contributed 100,000 Atlantic Salmon smolts to OPI and their attempt to repay have been the salmon fry that were both diseased and weak. If OPI

is given another 80,000 smolts, what guarantee does the state have that OPI will repay on those smolts as well as the original 100,000? What would happen if OPI, if natural disasters, storms, grey seals, happen again? Is it not true that the OPI had applied for additional smolts from the state even before these natural disasters occurred? Has OPI made a true effort to purchase these smolts from the open market, like Scotland, Norway, New Hampshire, etc? Finally, what is to prevent another private aquaculture firm, like Viking Fish Farms, which is located in Brooklin, for also asking for smolts from a state hatchery rather than buying them from the open market?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a couple of questions through the Chair.

In 1983, I noticed in the chart that I have here, that 639,701 smolts were released in the rivers of the State of Maine. If we have a tagging system, can someone tell me how many of those fish that were released came back? I would like an answer to that question because I think that is real critical of how many fish we are talking about.

We brought this up in committee and the answer was that about 500 came back. 500 out of 639,000 came back. You know where they went? They went to the Canadian commercial fishermen. The people in the United States are feeding the Canadian commercial fishermen and that is where these fish are going. If this project goes through and the project in Representative Rice's district goes through, what we will have is a flood on the market of American Atlantic Salmon and, therefore, the Canadian fish that are presently coming into this country won't be needed and, therefore, they will be coming into our rivers. If we don't start this aquaculture thing now, the more we pump into this, the more the Canadian fishermen are going to grab and it is Canadian commercial fishermen. Our commercial fishermen can't grab them but the Canadian commercial fishermen can and I think it is real important for us to know that. We, the taxpayers of the United States, are giving a bonus to the Canadian fishermen and I am not quite sure that we realize that nor the people of this country realize that.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Edgecomb, Representative Holloway.

Representative HOLLOWAY: Mr. Speaker, Ladies and Gentlemen of the House: Eastport is my hometown too and I think that Representative Vose does realize that but, as a former member of the Marine Resources Committee, I strongly supported this allocation two years ago to help private industry and to give that company a fresh start. At that time, I had a lot of opposition that called me and I promised them that this was a one time deal, that they would pay us back and that we would not go through this again.

I would like to respond to Representative Manning, who talked about the Canadian fishermen, I also would question as to who owns the company — is it Canadian or American? I don't want to compound my error of two years ago. This state has done our part. This actually gets down to a matter of principle. The loan was simply never, ever paid back, not one fish. My question now is, will Ocean Products be around to pay back, if we do go with another 100,000 smolts? This is sort of a handshake and promise bill. They are asking the state to tide them over, over another bad time, it is the third bad time for Ocean Products.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Duffy.

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: It takes a great deal for me to get up and talk about this issue especially in deference to Representative Vose from Eastport but in January at a hearing of the Atlantic Salmon Commission they asked us to take only one fish from the Penobscot. They actually told they probably would double the fee to \$10.00. They said that probably if we could cut the take by 10 percent of the anglers that we could probably, in three to five years, have this Penobscot River back to where it was before.

What is important to remember is that I grew up in Bangor and the Penobscot River, 20 years ago, was good for a mud turtle. Bangor began depolluting the river and was one of the first to participate in the Clean Rivers Program and now 20 years later, they are asking us to conserve our resource so that we can have it back again someday.

This is not a rich man's paradise, this is an area that anybody can walk to in Bangor, they can fish now, we have restored the river and we are on our way to bringing it back to where the salmon can come again in large numbers. This is a matter of trust for me. I sat out and supported that as a member of the Fisheries and Wildlife Committee and the rest of those people at the hearing, 100 to 150 people, went along. Now they want us to give 10 to 15 percent of those fish to go into the Penobscot back. I think that not only are we backtracking on the sportsman in the State of Maine, the residents in Bangor, but we are going back on most of all the conservation program that we are going to go from today and say, well, if no other issue comes up as priority, then all right, you can have what we say we are going to give you if you are willing to sacrifice for it but there are no conditions that you are sacrificing won't mean that we will give away the resources to somebody else. I think that is important to remember, I think the promises can take us down the river and I think that we can only go to the well one time.

Representative McPherson of Eliot moved the previous question.

The pending question was "Shall the main question be put now?" A vote was taken. 83 having voted in favor of the same and 14 against, the main question was put now.

Representative Ruhlin of Brewer requested a roll call on acceptance of the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is the motion of the Representative from Stockton Springs, Representative Crowley, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, I wish to pair my vote with Representative Nicholson of South Portland. If he were here and voting, he would be voting yes; I would be voting no.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker. I wish to pair my vote with Representative Beaulieu from Portland. If she were present and voting, she would be voting yes; I would be voting no.

The SPEAKER: The pending question before the House is the motion of the Representative from Stockton Springs, Representative Crowley, that the House accept the Majority

"Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 22

YEAS:—Armstrong, Bonney, Boutilier, Branigan, Brodeur, Brown, D.N.; Cahill, Carroll, Clark, Cote, Crowley, Daggett, Descoteaux, Diamond, Drinkwater, Erwin, Hayden, Higgins, H.C.; Ingraham, Jalbert, LaCroix, Law, Lisnik, MacBride, Manning, Martin, H.C.; Matthews, McCollister, Michael, Michaud, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nelson, Paradis, P.E.; Parent, Perry, Pines, Pouliot, Priest, Racine, Randall, Reeves, Richard, Ridley, Rioux, Rolde, Rydell, Scarpino, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Tammara, Tardy, Telow, Theriault, Vose, Walker, Whitcomb, Willey, Zirnklinton.

NAYS:—Aliberti, Allen, Baker, A.L.; Begley, Bell, Bost, Bott, Bragg, Brown, A.K.; Callahan, Carter, Cashman, Connors, Crouse, Davis, Dillenback, Duffy, Farnum, Foster, Greenlaw, Handy, Harper, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Hoglund, Holloway, Jacques, Kimball, Lander, Lawrence, Lebowitz, Lord, Macomber, Masterman, Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Murphy, E.M.; Murphy, T.W.; Nickerson, Paradis, E.J.; Paul, Rice, Rotondi, Ruhlin, Seavey, Sherburne, Simpson, Smith, C.W.; Soucy, Sproul, Swazey, Warren, Webster, Wentworth.

PAIRED:—Beaulieu-Dellert; Foss-Nicholson.

ABSENT:—Baker, H.R.; Carrier, Chonko, Coles, Connolly, Cooper, Dexter, Gwadosky, Hale, Jackson, Joseph, Kane, Nadeau, G.R.; O'Gara, Roberts, Salsbury, Small, Smith, C.B.; Stetson, Taylor, Weymouth, The Speaker.

64 having voted in the affirmative and 61 in the negative with 22 being absent and 4 paired, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for Second Reading tomorrow.

The Chair laid before the House the following matter: Majority Report of the Committee on Transportation reporting "Ought to Pass" Report as amended by Committee Amendment "A" (H-47) on Bill "An Act Relating to Motorcycle Safety" (H.P. 261) (L. D. 315) with the Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier and later today assigned pending the motion of the Representative from Fort Kent, Representative Theriault, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Members of the House: I would ask you today to vote against the pending motion. This bill, as amended, would allow motorcyclists in this state to be able to use the modulating headlight. The original bill, as we heard in committee, said that "it shall be allowable to use modulating headlights." The committee amendment changed the word from "shall" to "may" and the reasons I oppose this bill today is that I don't want our motorcyclists out there riding in pairs with one motorcyclist with the modulating headlight on and the other one on a constant beam. I think if we are going to do this, we ought to either make it that everybody has modulating headlights on or nobody does.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Michael.

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you do accept the Majority "Ought to Pass" Report. The gentleman reminded me of something that I should probably explain. The original bill did say "shall" and that was a function of a clerical mixup that we had at the beginning of the year. You may remember that this bill originally came out and it had my name on it and I think Representative Whitcomb's

name was on it and Representative Bragg's and it was referred to the Committee on Agriculture or recommended so, in that whole process, the bill wound up getting drafted before I even signed it and I wound up signing it rather than going to the expense of redrafting it. So, it was never my intent to mandate anything and I would not vote for a bill that mandated that motorcyclists had to use modulating lights.

Why this bill was put in is twofold: (1) I had some constituent requests that we make motorcycles safer because they almost hit a motorcycle and you do read about it from time to time where people hit motorcycles because they can't see them so this was put in to protect the citizens from hitting those motorcycles and also I got some requests including one of the people who spoke for the bill that they would like to be able to use the modulating lights to protect themselves from getting hit. One fellow said that he thought, although he couldn't prove it, he had saved a life by having turned on his modulating light which now apparently is not legal but he has one anyway. He turned one on and thought that it saved a life when he came into an intersection so I do want you to know that it is not my intention at all to ever have this be a mandate.

I would like to allow motorcyclists to use this light if they want to. The federal government has proposed rules to allow this; yet the rules haven't been implemented so there is some question whether or not the lights are legal in the State of Maine. They may be legal but nobody knows for sure and I want to make it clear that they can use them if they want to.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: This is not a new issue that we are facing here this evening. This bill was here two years ago. I was opposed to it then and I am also opposed to it now.

If you take a look at L.D. 15, the heading itself is really misleading "An Act Relating to Motorcycle Safety." If you take a look at the bill, you would see what it actually does do. There is an amendment attached to it that does even less.

We all want to protect our motorcyclists when they are out on the road. I know motorcyclists who have been riding a motorcycle since they were probably 14 or 15 years of age and I would be the first to tell you, I am very much in favor of safety, but not safety in this way. Can you visualize motorcycle people coming down the road—you are changing "shall" to "may"—you "may" have a modulating light or you may not—three or four people riding abreast, two of them have it and two of them don't—I feel that this is not a very good bill and I think we also should take in account the people who are driving automobiles—people seeing these motorcycles coming down the road I think is, going to be more of a hindrance to the people driving cars than the people on the motorcycles themselves.

I would request a roll call.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the Representative from Auburn, Representative Michael.

Are you also suggesting modulating lights for the rear of the motorcycle as a measure of safety? I think it is more difficult to see the rear of the motorcycle as you approach it than the headlight as you come towards it.

The SPEAKER PRO TEM: The Representative from Lewiston, Representative Aliberti, has posed a question to the Representative from Auburn, Representative Michael, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: The bill just refers to modulating headlights for the top headlight and not the taillight. I don't know if they make anything for the rear of the motorcycle. I don't know if there is anything available to be used.

The SPEAKER PRO TEM: 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 PRO TEM: The pending question before the House is the motion of the Representative from Fort Kent, Representative Theriault, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

**ROLL CALL No. 23**

YEAS:—Aliberti, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Descoteaux, Diamond, Ingraham, Lacroix, Macomber, Manning, Martin, H.C.; Mayo, McPherson, McSweeney, Michael, Mills, Mitchell, Murray, Nadeau, G.G.; Paradis, P.E.; Pines, Pouliot, Salsbury, Smith, C.W.; Soucy, Stevens, P.; Tammaro, Theriault, Warren.

NAYS:—Allen, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bost, Bott, Boutilier, Bragg, Brodeur, Callahan, Carroll, Carter, Cashman, Clark, Conners, Cote, Crouse, Crowley, Daggett, Davis, Dellert, Dillenback, Drinkwater, Duffy, Erwin, Farnum, Foss, Foster, Greenlaw, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Holloway, Jacques, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Masterman, Matthews, McCollister, McGowan, McHenry, Melendy, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Nelson, Nickerson, Paradis, E.J.; Parent, Paul, Perry, Priest, Racine, Randall, Reeves, Rice, Richard, Ridley, Rioux, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Seavey, Sherburne, Simpson, Sproul, Stevens, A.G.; Stevenson, Strout, Swazey, Tardy, Telow, Vose, Walker, Webster, Wentworth, Whitcomb, Willey, Zirkilton.

ABSENT:—Baker, H.R.; Beaulieu, Carrier, Chonko, Coles, Connolly, Cooper, Dexter, Gwadosky, Hale, Jackson, Joseph, Kane, Nadeau, G.R.; Nicholson, O'Gara, Roberts, Small, Smith, C.B.; Stetson, Taylor, Weymouth, The Speaker.

30 having voted in the affirmative and 98 in the negative with 23 being absent, the motion did not prevail.

Thereupon, the Minority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

Representative Racine of Biddeford was granted unanimous consent to address the House:

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: Making reference to roll call vote No. 21, which was "An Act to Prohibit Radar Detectors" and the motion was acceptance of the Majority "Ought Not to Pass" Report, I was recorded as being absent and I would like to make it known for the record that I would have voted nay.

**(Off Record Remarks)**

On motion of Representative Cote of Auburn, Adjourned until nine o'clock tomorrow morning.