

# 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**

Thursday, April 25, 1985

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

Prayer by Reverend Dennis Reeves, Chestnut Street Baptist Church, Camden.

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 24, 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 Judiciary, the Governor's nomination of Maynard F. Marsh of Gorham for reappointment to the Maine Indian Tribal-State Commission.

Sincerely,

S/ JOY O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine

Augusta

April 24, 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 Judiciary, the Governor's nomination of Bonnie Post of Owls Head for reappointment to the Maine Indian Tribal-State Commission.

Sincerely,

S/ JOY O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine

Augusta

April 24, 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 Judiciary, the Governor's nomination of Frederick B. Hurley of Wayne for reappointment to the Maine Indian Tribal-State Commission.

Sincerely,

S/ JOY O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine

Augusta

April 24, 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 Judiciary, the Governor's

nomination of Paul Frinsko of Scarborough for reappointment to the Maine Indian Tribal-State Commission.

Sincerely,

S/ JOY O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine

Augusta

April 24, 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 Energy and Natural Resources, the Governor's nomination of Dr. R. Stevens Kleinschmidt of Pittsfield for appointment to the Board of Environmental Protection.

Dr. Kleinschmidt is replacing Linwood Palmer.

Sincerely,

S/ JOY O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine

Augusta

April 24, 1985

Honorable Edwin H. Pert

Clerk of the House

112th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Insist and Join in a Committee of Conference on Bill "An Act to Protect Lobster Gear" (H.P. 445) (L.D. 627).

Sincerely,

S/ JOY O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$20,000,000 to Match Available Federal Funds for Highway, Bridge and Airport Improvements" (S.P. 512) (L.D. 1374)

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

Was referred to the Committee on Transportation in concurrence.

**Unanimous Leave to Withdraw**

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Relating to the Guardian Ad Litem in Proceedings Under the Child and Family Services and Child Protection Act" (S.P. 180) (L.D. 498)

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

**Ought to Pass in New Draft**

Report of the Committee on Human Resources on Bill "An Act to Assure Advocacy Services for Children with Learning Disabilities" (S.P. 274) (L.D. 732) reporting "Ought to Pass" in New Draft (S.P. 509) (L.D. 1369)

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

Report was read and accepted, the New Draft read once and assigned for Second Reading later in today's session.

**Non-Concurrent Matter**

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1985 (Emergency) (H.P. 927) (L.D. 1332) which was passed to be engrossed as amended by House Amendment

"A" (H-75) in the House on April 19, 1985.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-75) as amended by Senate Amendment "A" (S-55) thereto in non-concurrence.

The House voted to recede and concur.

**Messages and Documents**

The following Communication: (S.P. 510)

112th Maine Legislature

April 23, 1985

Senator Larry M. Brown

Representative Ada K. Brown

Chairpersons

Committee on Education

112th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Joyce Roach of Merrill for reappointment to the State Board of Education.

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

Sincerely,

S/ CHARLES P. PRAY

President of the Senate

S/ JOHN L. MARTIN

Speaker of the House

Came from the Senate, Read and Referred to the Committee on Education.

Was Read and Referred to the Committee on Education in concurrence.

The following Communication: (S.P. 511)

112th Maine Legislature

April 23, 1985

Senator Larry M. Brown

Representative Ada K. Brown

Chairpersons

Committee on Education

112th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Frank J. Farrington of Bangor for reappointment to the State Board of Education.

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

Sincerely,

S/ CHARLES P. PRAY

President of the Senate

S/ JOHN L. MARTIN

Speaker of the House

Came from the Senate, Read and Referred to the Committee on Education.

Was Read and Referred to the Committee on Education in concurrence.

**Petitions, Bills and Resolves  
Requiring Reference**

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

**Agriculture**

Bill "An Act to Amend the Maine Milk Pool Law" (H.P. 959) (L.D. 1380) (Presented by Representative VOSE of Eastport) (Cosponsors: Representatives CAHILL of Woolwich, CROUSE of Caribou and Senator USHER of Cumberland)

(Ordered Printed.)

Sent up for concurrence.

**Appropriations and Financial Affairs**

Bill "An Act to Provide for Crisis Intervention and Continued Treatment and Support in Cases of Child Abuse and Neglect" (H.P. 968) (Presented by Representative BRODEUR of Auburn) (Cosponsor: Representative CONNOLLY of Portland)

(Ordered Printed.)  
Sent up for concurrence.

### Business and Commerce

Bill "An Act to Modify the Voting Procedure for the Conversion of a Mutual Financial Institution to a Stock Form of Ownership" (H.P. 972) (L.D. 1394) (Presented by Representative COOPER of Windham) (Cosponsor: Senator DIAMOND of Cumberland) (Submitted by the Department of Business, Occupational and Professional Regulation pursuant to Joint Rule 24) (Ordered Printed.)  
Sent up for concurrence.

### Energy and Natural Resources

Bill "An Act to Amend the Wood Measurement Laws" (Emergency) (H.P. 960) (L.D. 1381) (Presented by Representative MCGOWAN of Canann) (Cosponsors: Senator TWITCHELL of Oxford and Representative MILLS of Bethel)  
Bill "An Act Relating to Municipal Regulations of Hazardous Waste and Chemical Substances" (H.P. 961) (L.D. 1382) (Presented by Representative HOGUND of Portland) (Cosponsors: Senator ANDREWS of Cumberland and NAJARIAN of Cumberland) (Ordered Printed.)  
Sent up for concurrence.

### Human Resources

Bill "An Act to Fund Community Response Programs to Address Child Sexual Abuse in Maine Communities" (H.P. 962) (L.D. 1383) (Presented by Representative BRODEUR of Auburn) (Cosponsor: Representative CARROLL of Gray)  
Bill "An Act Concerning Employment of Certain Individuals in Contact with Children" (H.P. 963) (L.D. 1384) (Presented by Representative STEVENS of Bangor) (Cosponsors: Representatives ALLEN of Washington, MELENDY of Rockland and BOST of Orono)  
Bill "An Act to Prevent Developmental Disabilities in Maine" (H.P. 964) (L.D. 1385) (Presented by Representative NELSON of Portland) (Cosponsors: Senator PEARSON of Penobscot, Representative MURPHY of Kennebunk and Speaker MARTIN of Eagle Lake) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (Ordered Printed.)  
Sent up for concurrence.

### Judiciary

Bill "An Act Concerning Murder Cases and Cases of Sexual Abuse of Minors" (H.P. 956) (Presented by Representative STEVENS of Sabattus) (Cosponsors: Representative COTE of Auburn and Senator BERUBE of Androscoggin)  
Bill "An Act to Make Small Claims Courts More Effective" (H.P. 966) (Presented by Representative McHENRY of Madawaska)  
Bill "An Act to Protect Abused Children" (H.P. 969) (L.D. 1386) (Presented by Representative STEVENS of Bangor) (Cosponsors: Senator CARPENTER of Aroostook, Representatives MELENDY of Rockland, and KIMBALL of Buxton) (Submitted by the Department of Human Services pursuant to Joint Rule 24)

Bill "An Act to Make Public the Proceedings of the Board of Overseers of the Bar" (H.P. 971) (Presented by Representative DAVIS of Monmouth) (Cosponsors: Senators DIAMOND of Cumberland, PERKINS of Hancock and Speaker MARTIN of Eagle Lake) (Ordered Printed.)  
Sent up for concurrence.

### Transportation

Bill "An Act to Require that Commercial Trucks Carrying Gravel to be Covered" (H.P. 967) (Presented by Representative MITCHELL of Freeport) (Cosponsors: Representatives CARROLL of Gray and LORD of Waterboro) (Ordered Printed.)

Sent up for concurrence.

### Orders

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order: ORDERED, that Representative Harlan Baker of Portland be excused April 25 and 26 for personal reasons.

Was read and passed.

### Reports of Committees

#### Unanimous Ought Not to Pass

Representative MACOMBER from the Committee on Transportation on Bill "An Act Concerning the Designation and Presentation of Scenic Roads" (H.P. 659) (L.D. 931) reporting "Ought Not to Pass"

Representative MACOMBER from the Committee on Transportation on Bill "An Act Concerning Flashing Lights on Church Buses" (H.P. 621) (L.D. 891) reporting "Ought Not to Pass"

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

#### Unanimous Leave to Withdraw

Representative MACOMBER from the Committee on Transportation on Bill "An Act to Increase Public Safety on Roads" (H.P. 749) (L.D. 1072) reporting "Leave to Withdraw"

Representative MACOMBER from the Committee on Transportation on Bill "An Act to Provide for Alternate Financing for Displaced Homeowners" (H.P. 95) (L.D. 115) reporting "Leave to Withdraw"

Representative MACOMBER from the Committee on Transportation on Bill "An Act to Require All New Drivers to Complete an Approved Defensive Driving Course" (H.P. 515) (L.D. 720) reporting "Leave to Withdraw"

Representative SWAZEY from the Committee on Taxation on Bill "An Act to Provide Sales Tax Equity for Lessees of Depreciable Machinery and Equipment" (H.P. 285) (L.D. 355) reporting "Leave to Withdraw"

Representative SWAZEY from the Committee on Taxation on Bill "An Act Concerning the Collection of Sales Tax" (H.P. 304) (L.D. 393) reporting "Leave to Withdraw"

Representative SWAZEY from the Committee on Taxation on Bill "An Act Concerning Information Provided Prior to the Payment of Excise Taxes on Motor Vehicles" (H.P. 640) (L.D. 908) reporting "Leave to Withdraw"

Representative SWAZEY from the Committee on Taxation on Bill "An Act to Increase the Eligibility Guidelines under the Elderly Household Tax and Rent Refund Act and the Elderly Low Cost Drug Program" (H.P. 675) (L.D. 958) reporting "Leave to Withdraw"

Representative JACQUES from the Committee on Fisheries and Wildlife on Bill "An Act Relating to the Season and Penalties under the Bucks Only Law" (H.P. 645) (L.D. 915) reporting "Leave to Withdraw"

Representative BOTT from the Committee on Legal Affairs on Bill "An Act to Insure Competitive Equality for the Maine Liquor Industry" (H.P. 281) (L.D. 351) reporting "Leave to Withdraw"

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

### Consent Calendar

#### First Day

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

(S.P. 317) (L.D. 806) Bill "An Act Concerning the Excise Tax on Malt Liquor Sold for Consumption on Board a Ship Headed for a Foreign Port" Committee on Taxation reporting "Ought to Pass"

(S.P. 202) (L.D. 552) Bill "An Act to Establish a Division of Deafness within the Bureau of Rehabilitation" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A"

(S-53)

(S.P. 280) (L.D. 738) An Act to Annex Certain Lands to the Town of Millinocket" (Emergency) (Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-54)

(S.P. 205) (L.D. 576) Bill "An Act to Recodify the Election Laws" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-52)

(H.P. 661) (L.D. 944) Bill "An Act to Provide that Cost-of-Living Plans for Retired Persons under the Maine State Retirement System shall Apply to All Participating Local Districts that do not Provide Social Security Benefits for Employees" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-89)

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. 78) (L.D. 98) Bill "An Act Defining the Right of State Employees to Testify Before Legislative Committees" (C. "A" H-85)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed as amended and sent up for concurrence.

(H.P. 370) (L.D. 525) Bill "An Act to Amend the Municipal Development District Law"

On objection of Representative Murray of Bangor, was removed from Consent Calendar, Second Day.

Thereupon, the Committee Report was read and accepted, the Bill read once and assigned for Second Reading later in today's session.

(H.P. 613) (L.D. 883) Bill "An Act to Amend the Forest Fire Suppression Tax to Allow Persons Affected by Tax Liens One Year to Pay those Taxes"

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed and sent up for concurrence.

### Passed to Be Engrossed

Bill "An Act to Include Restitution as a Disciplinary Consequence to Inmate Misconduct at State Correctional Facilities" (Emergency) (H.P. 952) (L.D. 1371)

Bill "An Act Establishing a System for the Reporting of Selected Occupational Diseases" (H.P. 953) (L.D. 1372)

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

### Later Today Assigned

Bill "An Act Concerning the Removal of Child Abusers from the Household" (H.P. 954) (L.D. 1373)

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

On motion of Representative Nelson, tabled pending passage to be engrossed and later today assigned.

Bill "An Act to Establish the Maine Conservation Corps" (Emergency) (H.P.) (L.D. 1205)

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

Representative Michaud of Medway offered House Amendment "A" (H-86) and moved its adoption.

House Amendment "A" (H-86) was read by the Clerk and adopted.

The Bill was passed to be engrossed as

amended by House Amendment "A" and sent up for concurrence.

Bill "An Act to Provide an Exemption from the 7-Day Loaner Plate Limitation" (H.P. 430) (L.D. 610)

Was reported by the Committee on Bills in the Second Reading and read a second time. Representative Theriault of Fort Kent offered House Amendment "A" (H-87) and moved its adoption.

House Amendment "A" (H-87) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadodsky.

Representative GWADOSKY: Mr. Speaker, I wonder if someone from the Transportation Committee would be so kind as to explain what House Amendment "A" does?

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

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

Representative THERIAULT: Mr. Speaker, Members of the House: It has been the practice in the past that automobile dealers would loan, free of charge, a vehicle to the colleges for purposes of using these vehicles in organized athletics and other purposes. In so doing, they would affix a loaner plate to the vehicle. This practice was discovered by our Motor Vehicle Division and stopped because it was done illegally. The primary purpose of a loaner plate was, if you had a car in a garage being repaired, you were able to borrow a vehicle for up to seven days. Now these vehicles that were being loaned to the universities and colleges in the state was being loaned for periods of up to one year so, since this practice was illegal, a bill was presented to our committee and what this amendment does is it would authorize vehicle dealers to loan a vehicle to the university system and the university system would be allowed to use their university plates on the vehicle; thereby, making it legal and stopping the illegal practice of using loaner plates. This amendment would also make it available to all organized endeavors at the university, not only sports like the original bill mentioned, so that essentially is what this does.

Thereupon, House Amendment "A" was adopted.

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

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

#### Passed to Be Enacted

An Act to Deorganize Plantation 14 (S.P. 90) (L.D. 270) (C. "A" S-51)

An Act Establishing a Pilot Project to Provide Liaison to Families of Children with Special Needs Within the Department of Educational and Cultural Services (S.P. 503) (L.D. 1363)

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

By unanimous consent, all matters having been acted upon requiring Senate concurrence, ordered sent forthwith to the Senate.

#### (Off Record Remarks)

On motions of Representative Joseph of Waterville.

Recessed until five o'clock in the evening.

(After Recess)  
(5:00 p.m.)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

#### Petitions, Bills and Resolves Requiring Reference

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

#### Business and Commerce

Bill "An Act to Make Maine's Implied Warranty Law Applicable to the Sale of Used Motor Vehicles by Dealers" (H.P. 977) (Presented by Representative ARMSTRONG of Wilton) (Ordered Printed.)  
Sent up for concurrence.

#### Business and Commerce

Bill "An Act to Place the State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals Within the Department of Business, Occupational and Professional Regulation" (Emergency) (H.P. 978) (Presented by Representative RACINE of Biddeford) (Cosponsors: Representatives MURRAY of Bangor, ARMSTRONG of Wilton, and Senator BUSTIN of Kennebec) (Submitted by the Department of Business, Occupational and Professional Regulation pursuant to Joint Rule 24)

Committee on Human Resources was suggested.  
(Ordered Printed.)

Sent up for concurrence.

#### Reports of Committees

##### Unanimous Leave to Withdraw

Representative SALSBUURY from the Committee on Marine Resources on Bill "An Act to Prohibit the Taking of Scallops During Certain Hours of the Day" (H.P. 487) (L.D. 690) reporting "Leave to Withdraw"

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

#### Ought to Pass in New Draft

Representative McHENRY from the Committee on Local and County Government on Bill "An Act Validating the Vote to Convert Wallagrass Plantation into the Town of Wallagrass" (Emergency) (H.P. 668) (L.D. 951) reporting "Ought to Pass" in New Draft (H.P. 974) (L.D. 1396)

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

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Human Resources on Bill "An Act to Regulate Smoking in Retail Food Stores and Restaurants" (H.P. 269) (L.D. 339) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Notice of the Smoking Policy in Restaurants" (H.P. 970) (L.D. 1379)

Signed:

Senators:

BERUBE of Androscoggin  
BUSTIN of Kennebec  
GILL of Cumberland

Representatives:

BRODEUR of Auburn  
PINES of Limestone  
KIMBALL of Buxton  
TAYLOR of Camden  
SEAVEY of Kennebunkport  
NELSON of Portland  
MANNING of Portland  
CARROLL of Gray

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

Representatives:

ROLDE of York  
MELENDY of Rockland

Reports were read.

On motion of Representative Nelson of Portland, tabled pending acceptance of either report and later today assigned.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Provide Whole Milk at Public Schools" (H.P. 482) (L.D. 685)

Signed:

Senators:

BROWN of Washington  
GAUVREAU of Androscoggin

Representatives:

O'GARA of Westbrook  
SMALL of Bath  
BROWN of Gorham  
FOSS of Yarmouth  
LAWRENCE of Parsonsfield  
MATTHEWS of Caribou

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

Signed:

Senator: HICHENS

Representatives:

HANDY of Lewiston  
CROUSE of Caribou  
ROBERTS of Farmington  
BOST of Orono

Reports were read.

On motion of Representative Brown of Gorham, tabled pending acceptance of either report and tomorrow assigned.

#### Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act Concerning Passengers Riding in Open-body Trucks" (H.P. 619) (L.D. 889)

Signed:

Senators:

DANTON of York  
SHUTE of Waldo  
ERWIN of Oxford

Representatives:

SOUCY of Kittery  
POULIOT of Lewiston  
CAHILL of Woolwich  
THERIAULT of Fort Kent  
MOHOLLAND of Princeton  
STROUT of Corinth  
CALLAHAN of Mechanic Falls

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

Signed:

Representatives:

MACOMBER of South Portland  
McPHERSON of Eliot

Reports were read.

Representative Theriault of Fort Kent moved 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: This bill bans passengers from riding in the back of trucks and pickups. It does create some problems to some of us and I would elaborate on some of the things that we considered.

In my area, farmers move their potato pickers from field to field with pickups and trucks and they have been doing this for years. I don't know of one accident ever occurring.

Secondly, we have some large families in this state who can't seat all the passengers or family members in the front of a pickup. Consequently, some have to sit in back of the pickup whenever they are going places so it would create a problem for some of those families.

We have military corps boys that traverse the state on occasion and this would create a problem also for them. It would be very difficult

to enforce and we would have to have so many exceptions to the law so these were some of the reasons why the majority of the committee voted "Ought Not to Pass" and I would urge you to support that motion.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: We did not intend to debate the issue, we just wanted to explain why Representative McPherson and myself were on the "Ought to Pass." We agreed with the Majority Report except that we felt that anybody riding in the back of a pickup truck should be required to sit down and not stand, that was our only problem with it.

Whereupon, the Majority "Ought Not to Pass" Report was accepted.

Sent up for concurrence.

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Prescribe when a Caboose is Required in Connection with Movements of Locomotives and Cars" (H.P. 50) (L.D. 56)

Signed:

Senators:

DANTON of York

SHUTE of Waldo

Representatives:

SOUCY of Kittery

POULIOT of Lewiston

CAHILL of Woolwich

THERIAULT of Fort Kent

McPHERSON of Eliot

MOHOLLAND of Princeton

CALLAHAN of Mechanic Falls

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

Signed:

Senator:

ERWIN of Oxford

Representatives:

MACOMBER of South Portland

MILLS of Bethel

STROUT of Corinth

Reports were read.

Representative Theriault of Fort Kent moved acceptance of the Majority "Ought Not to Pass" Report.

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

#### Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Locate the Supreme Judicial Court in the City of Augusta" (H.P. 378) (L.D. 519) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Study the Location of the Supreme Judicial Court in the City of Augusta" (H.P. 973) (L.D. 1395)

Signed:

Senators:

CARPENTER of Aroostook

CHALMERS of Knox

SEWALL of Lincoln

Representatives:

KANE of South Portland

MacBRIDE of Presque Isle

LEBOWITZ of Bangor

PARADIS of Augusta

PRIEST of Brunswick

ALLEN of Washington

COOPER of Windham

DRINKWATER of Belfast

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

Signed:

Representatives:

STETSON of Damariscotta

CARRIER of Westbrook

Reports were read.

Representative Paradis of Augusta moved acceptance of the Majority "Ought to Pass" Report.

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I just want to mention the fact that I think we can find better use of \$6,000 in the judicial department of our government than to fund this study committee to study the feasibility of moving the Supreme Court from Portland to Augusta. The study committee will be loaded in favor of such a move and to spend \$6,000 on that wasteful cause I think is irresponsible.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Foster.

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: Last year, when I served on the Judiciary Committee, I found that there were only two states in the United States that do not have their judiciary in the capitol city. The other state is Louisiana. Our judiciary in Bangor and Portland is a very expensive operation and the other reason that I think it should be studied right now is that it has never been done. No one has ever looked at the fact that the judiciary is not in the capitol city. I think an awful lot of the friction and the fact that they are 60 miles away could be overcome with a study of what is going on.

I would ask you to accept the Majority Report.

Thereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for Second Reading tomorrow.

#### Consent Calendar

##### First Day

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

(H.P. 775) (L.D. 1096) Bill "An Act to Investigate the Importation and Disposal of Solid Waste and Hazardous Waste in Maine" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-93)

(H.P. 411) (L.D. 564) Bill "An Act to Clarify the Use of the Hand Fishing Scallop License" Committee on Marine Resources reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, April 26, 1985, under the listing of Second Day.

#### Consent Calendar

##### Second Day

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

(S.P. 317) (L.D. 806) Bill "An Act Concerning the Excise Tax on Malt Liquor Sold for Consumption on Board a Ship Headed for a Foreign Port"

(S.P. 202) (L.D. 552) Bill "An Act to Establish a Division of Deafness within the Bureau of Rehabilitation" (C."A" S-53)

(S.P. 280) (L.D. 738) Bill "An Act to Annex Certain Lands to the Town of Millinocket" (Emergency) (C. "A" S-54)

(S.P. 205) (L.D. 576) Bill "An Act to Recodify the Election Laws" (C."A" S-52)

(H.P. 661) (L.D. 944) Bill "An Act to Provide that Cost-of-Living Plans for Retired Persons under the Maine State Retirement System shall Apply to All Participating Local Districts that do not Provide Social Security Benefits for Employees" (C. "A" H-89)

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

concurrence.

#### Passed to Be Engrossed

Bill "An Act to Assure Advocacy Services for Children with Learning Disabilities (S.P. 509) (L.D. 1369)

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

#### Later Today Assigned

Bill "An Act to Amend the Municipal Development District Law" (H.P. 370) (L.D. 525)

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

On motion of Representative Bost of Orono, tabled pending passage to be engrossed and later today assigned.

The following items appearing on Supplement No. 3 were taken up out of order by unanimous consent:

#### Papers from the Senate

Bill "An Act Concerning Retail Pricing Methods" (S.P. 514) (L.D. 1388)

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

Was referred to the Committee on Business and Commerce in concurrence.

Bill "An Act to Reduce Acid Deposition in Maine" (S.P. 515) (L.D. 1389)

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

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

Bill "An Act to Help Improve the Quality of Child Care in Maine" (S.P. 516) (L.D. 1390)

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

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act Concerning Surplus Funds Generated by Ferry Lines" (S.P. 517) (L.D. 1391)

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

Was referred to the Committee on Transportation in concurrence.

#### Unanimous Ought Not To Pass

Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act Relating to Initial Plates under the Motor Vehicle Law" (S.P. 396) (L.D. 1106)

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

#### Unanimous Leave to Withdraw

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Adjust the Compensation of Committee Chairman" (S.P. 215) (L.D. 573)

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

#### Non-Concurrent Matter

Bill "An Act to Amend the Effective Dates of Various Parts of the Education Reforms Enacted in September 1984" (Emergency) (H.P. 720) (L.D. 1030) which was passed to be engrossed in the House on April 23, 1985.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-60) in non-concurrence.

The House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act to Expand the Membership of the Maine Occupational Information Coordinating Committee" (H.P. 730) (L.D. 1039)

which was passed to be enacted in the House on April 24, 1985.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-59) in non-concurrence.

The House voted to recede and concur.

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

Thursday, April 25, 1985

#### ADMINISTRATIVE SUPPLEMENT

Reference is made to (H.P. 445) (L.D. 627) Bill "An Act to Protect Lobster Gear"

In reference to the action of the House on Monday, April 22, 1985, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative ROLDE of York  
Representative COLES of Harpswell  
Representative RICE of Stonington

At this point, Speaker Martin appointed Representative Gwadosky of Fairfield to act as Speaker pro tem.

The Chair laid before the House the following matter: Divided Report, Majority Report of the Committee on Human Resources on Bill "An Act to Regulate Smoking in Retail Food Stores and Restaurants" (H.P. 269) (L.D. 339) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Notice of the Smoking Policy in Restaurants" (H.P. 970) (L.D. 1379) and Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending acceptance of either report.

Representative Nelson of Portland moved acceptance of the Majority "Ought to Pass" Report in New Draft.

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

Representative NELSON: Mr. Speaker, Ladies and Gentlemen of the House: The bill, initially, read "An Act to Regulate Smoking in Retail Stores and Restaurant" and it was changed in committee to become a new draft, L.D. 1379, which says: "An Act to Require Notice of the Smoking Policy in Restaurants" and that is what it does.

By the time we got through rewriting it, there was no opposition from any restaurateur, the Chamber of Commerce, or any people that thought this might interfere with business. It simply states that a restaurant owner or his designee shall notify each patron of the policy on seating for smokers and non-smokers. This notification may be verbal or may be a sign prominently displayed at or near the entrance. The restaurant shall encourage their patrons to make their seating requests known.

It is a simple, straight forward beginning to a policy that we hope in time will make a difference in people's eating habits and their lives.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: Having voted in the minority, I feel like I should explain to you why I am voting against this bill.

If you check your records, it will show that I voted for the very good bill that we had already put out this session on smoking. Representative Nelson put out an excellent bill. People already know that we mean it when we say that there has to be some clean air for the smokers. However, this particular bill came to our committee and the Maine Lung Association came in and testified, neither for nor against, and the reason I feel that I have to vote no on this bill is because I feel that it is a nothing bill. Currently, the Maine Lung Association puts out a very nice little sign here

and let me read what it says: "For your total dining pleasure, this restaurant provides smoking and non-smoking areas. Let us know your preference before you are seated." The Restaurant and Innkeepers Association said they would be willing to pick up these signs from the Maine Lung Association and mail them out to all the restaurants. I am saying, to ask them to do more than this is just harassment. So all I would say is, let us go ahead and vote no on this.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: We tried that six years ago, we tried to have a stronger bill about smoking in restaurants and the restaurants in turn said, let's try it, leave us alone, and we will do the best we can. In the course of the two years between that bill and the next one, four years later, very little was done. Two years later, another bill came in and the restaurateurs said, let us do it, don't mandate, leave us alone, we will do it. Well, they didn't do it and now we are back again with this. A simple little bill. Granted perhaps, it should be stronger but it isn't, it is a beginning where the state is saying, do something. We tried to do it on a voluntary basis and you are not quite making the grade.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: If you will look at your bill, it says: "this notification may be verbal or may be by a sign prominently displayed at or near the entrance." That sign that Representative Melendy is advocating is a sign that would state that so that I hope that all of you will support this bill because it is a bill that only states or puts up a sign as to your smoking preference when you enter a restaurant. It is very important to those people who are allergic to smoke and have a problem with breathing.

Representative McCollister of Canton requested a roll call.

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 Portland, Representative Nelson, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 45

YEAS:—Aliberti, Allen, Beaulieu, Begley, Bell, Bost, Bott, Boutilier, Bragg, Brannigan, Cahill, Carroll, Cashman, Clark, Coles, Connolly, Cooper, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Drinkwater, Duffy, Farnum, Foss, Greenlaw, Harper, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Jacques, Kimball, Lander, Law, Lawrence, Lebowitz, Lord, Manning, Masterman, Matthews, McHenry, McPherson, Mills, Mitchell, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nelson, Nicholson, O'Gara, Paradis, E.J.; Pines, Pouliot, Priest, Randall, Reeves, Rice, Richard, Rioux, Roberts, Rydell, Scarpino, Sherburne, Small, Smith, C.B.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Swazey, Taylor, Vose, Walker, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAYS:—Baker, A.L.; Bonney, Brown, A.K.; Brown, D.N.; Callahan, Carter, Chonko, Connors, Cote, Dillenback, Erwin, Foster, Hale,

Handy, Hayden, Hepburn, Holloway, Ingraham, Jackson, Jalbert, Joseph, Lacroix, Macomber, Martin, H.C.; Mayo, McCollister, McGowan, McSweeney, Melendy, Michaud, Moholland, Nickerson, Paradis, P.E.; Parent, Paul, Perry, Racine, Ridley, Rolde, Rotondi, Ruhlin, Salsbury, Simpson, Smith, C.W.; Tammaro, Tardy, Telow, Theriault.

ABSENT:—Armstrong, Baker, H.R.; Brodeur, Carrier, Gwadosky, Kane, Lisnik, MacBride, Michael, Nadeau, G.R.; Seavey, Strout, Warren, The Speaker,

89 having voted in the affirmative and 48 in the negative with 14 being absent, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for Second Reading tomorrow.

The Chair laid before the House the following matter: Divided Report, Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Prescribe when a Caboose is Required in Connection with Movements of Locomotives and Cars" (H.P. 50) (L.D. 56) and the Minority Report of the same Committee reporting "Ought to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Theriault of Fort Kent that the House accept the Majority "Ought Not to Pass" Report.

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

Representative THERIAULT: Mr. Speaker, Members of the House: This has been a very difficult bill for the committee. As you can see from the L.D. number, it has been with us for a long time — as a matter of fact, since February. Part of the reason that it was with us for so long before reporting it out is that we needed to do a lot of research because this bill was presented to us as a safety issue and we take that very seriously in our committee.

As we progressed with the research on the bill, it became apparent that, maybe, the real issue was not safety; consequently, the majority of the committee decided to report the bill "Ought Not to Pass." In support of our decision, I would like to offer some of the points that we considered in our decision making.

First of all, in 1982, the United Transportation Union negotiated an agreement with the railroads of this nation. Maine's railroads were also included in that agreement and one of the things that that agreement did was that it allowed the elimination of cabooses on trains if it would be negotiated by both management and labor. This agreement is still in effect today. In return for this concession, the unions received certain consideration. This recommendation was based upon an agreement and the recommendation of the Presidential Advisory Board on railroad matters.

The agreement said in part that, like I mentioned before, that this was a negotiable item. It also mentioned that, if for some reason, an agreement could not be reached by both parties, that this could be put to arbitration. As we progressed through our study of this bill, it became apparent that it really was not a safety issue and this is why that the majority of the committee is on the side that it is because we felt that safety was not a negotiable item. If you take a look at the bill, you will see that the first line of the bill says that this is negotiable, this item. The bill itself says that and then in the Statement of Fact it says: that this is a safety issue. So this is why we had a hard time in correlating the two and this is why we are where we are.

There is at least one train in Maine here where the caboose has been negotiated off and this train is allowed to operate without a caboose. In addition to this, as of January 15, 1985, there were 1,710 trains operating in the United States without cabooses. I am sure if you think about it, if these trains were

operating without cabooses in an unsafe manner, that they would have been stopped by now.

Another issue that we need to think about is the financial difficulties that our railroads are now experiencing. You might not all agree with this but we have to look at the facts as they are before us. As a matter of fact, last year, the Governor appointed a special committee to look into the plights of the railroads and this was based in part because the railroads were abandoning some lines and they were scheduling others for abandonment. Consequently, there was a report passed on our desks some time ago with recommendations that this board came up with. Shortly, we will be receiving legislation on this which the different committees will hear, some will go to Taxation, some will go to Transportation and I don't know where else.

I am sure much will be said today in reference to catastrophes that have happened in the past and maybe even the future will be predicted as well but I want you to come back to the reasons why this bill was presented — if you think it was a safety issue, that is one thing; if you think it was something else, that is another. I hope that you consider that while the other stories unfold before you.

In conclusion, I would like to say that my voting record here would indicate that I support labor frequently and I still do but, right at the moment, I am more concerned with saving the railroad than I am concerned with saving the caboose. I hope that you will support me in the Majority "Ought Not to Pass" Report.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I am going to ask you to support the Minority Report on this bill. I, too, have a problem with the negotiating public safety and if we get to second reading, I will take care of that problem. I have a real problem with the unsafe methods that have been proposed in other areas of the country so they can take cabooses off the trains. I believe pretty soon we are going to see just a train, an engine, and two side rear view mirrors on them so they can see the end of the train.

A hundred car train is approximately a mile long. This bill satisfies the fact that 1500 feet or less, these trains do not need a caboose. Longer than that, they can't see from the front end and only in the best weather. We are talking a mile, a mile and a half of train, controlled from the front end by whatever means, if you have to stop that train, that is a long walk back to see if a car has hit a train and you are dragging it. It is a long way back to save somebody's life if you need CPR.

I believe I was elected to come down here to protect and support and to legislate for the public's well being. If we have one hazardous waste spill, chemical spill, in downtown Bangor and I was here and I had a chance to pass this bill and the reason that happened in downtown Bangor was there was no caboose and no warning and know when it could have been prevented, then I haven't done my job.

I do want you to vote no on this. This is a public safety matter. The fact that the trains are running in the State of Maine without cabooses from Portland through Massachusetts which other states allow, doesn't mean we can't protect our own people from that kind of thing happening. We know they have taken out bridges, we know the spills are happening. We know that most accidents are in the middle of the train when they derail. We know these things. We know the common sense part of this bill. To make it any other question, which was part of problem with this bill, which we will alleviate, is what we want.

There is absolutely no substitute for a man,

a radio, his eyes being able to see the length of the train in the winter time with the snow and sleet and everything else. But, is this the best way? It is a tried and true way and I ask you again to vote no and let this bill go to second reading.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Old Town, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I was here in the House four years ago when this bill was before us and at that time I voted to abolish the caboose. I want to tell you today that I have railroad workers in my area that have been four years reporting to me that management has hardly filled the promises that were made and articulated here on the floor before us. Today, I will vote with the Minority Report and oppose the motion that is before us for that reason.

We have reports of hot boxes, which have started fires that have gone undetected until they would reach major proportions. We are hauling toxic and other hazardous cargos under these kinds of conditions without providing the necessary safety. Management has alluded to computers and other electronic devices which have yet to materialize. I realize they are expensive, but until they do materialize, I think the caboose will fit a purpose and satisfy the need that is there. I urge you to oppose the motion which is before us.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I, too, beg to differ with the good gentleman from Fort Kent, Representative Theriault. The State of Maine is one of the largest importers of hazardous chemicals, most of which come by rail. This, of course, is due to the large number of paper mills in Maine and the paper industry has a very large number of hazardous chemicals. Those trains operating through Maine have hazardous chemicals aboard them such as propane in the containers. An added protection of qualified employees on the rear of the train is just another added protection at a very minimal cost to the railroads.

I live in an area in Millinocket that has a lot of railroad people employed and I took some time to speak to them. Most of them have the concern that I spoke about earlier. We are very much aware there is a hazard out there and I hope that we deal with it today.

At this time, I would like to ask for a roll call Mr. Speaker.

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 Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: This bill, L.D. 56, has been called everything from a 'save the railroad bill', a union bill', to just about anything you can think of. This is not a union bill, this is not a management bill, it is not a partisan bill, it is pure and simply a safety bill and it can't be masqueraded as anything else.

I was curious about this bill so I called my fire chief back home and asked him what he thought we should do as a legislature. He said, one of the greatest fears that he has...we have two railroad lines that go through Brewer...is to have a derailment of hazardous chemicals in our city. We don't want a cloud of chlorine gas going down through our city or any other

city in the state. He asked me to please do my best to defeat it. I will and I ask the House to join me in defeating the Majority Report.

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

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to concur with my good friend from Brewer, Mr. Ruhlin that this is definitely a safety bill. If you saw the paper with the headlines "Fires Rampage in Brush Along Tracks," this happened yesterday, there were 15 fires set off by the engine of that train. If there was a caboose watching it, they would have seen that the fires were taking place. All the fire trucks from Portland had to go there and other towns had to come in and back up the Portland Fire Department. The company said, keep right on going, never mind the fires. I think we need this safety bill, please pass it.

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

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: There is no doubt in my own mind that we need to pay attention and try to do something to preserve rail systems in our state. As the good gentleman from Fort Kent reminded you, there will be legislation forthcoming and I believe that most of that legislation will be aimed at trying to assist the railroads. I, more than likely, will be one of those people who will be supporting that effort because, traditionally, this state has done much to help the trucking industry, to aid in cargo port development, to aid in airport development and we have done very little concerning railroads.

I, too, was not pleased when I presented the bill to see the negotiations section in there. And I can't remember when I presented the bill if I spoke to that issue before the committee. If I remember correctly, the room was so crowded, you couldn't get into it and there wasn't a gentleman in the place who would offer me a seat. So I left.

I think that the national negotiations that was referred to by the House Chair came about because of an arbitrated award that forced agreements to negotiate it. Now, in trying to do my homework, also on the issue, I am not aware of any membership of Maine's UTU who ever negotiated or requested to negotiate this issue. The latest information I have in my possession is that two trains that run through Maine quite often are the Canadian National and the Canadian Pacific. They have signed off totally from negotiating the end use of cabooses.

When this bill came before this body several years ago in 1981, in the 110th Legislature, this bill died. But I would like to quote to you the comments that were made by a very well respected gentleman of this body who is now deceased. His name was Representative McKean. I would like to quote the comments that he made for the record. "Mr. Speaker, Ladies and Gentlemen of the House: I would like to say this and I would like to make it public. B & M and the Boston and Maine Railroad is now putting a man in the caboose and that was the only railroad left in the state that wasn't doing it. But they are doing it now. And I will tell you this, and if the press hears it, I hope they print it. If Boston and Maine, as a result of this legislation being killed, if it is, if they take that man out of that caboose and cause an unsafe condition and jeopardize the citizens of this state, I will work just as hard to get an emergency bill in to do the same thing as what this bill is purporting to do. So, take heed Boston and Maine, don't play games with us." That is an excerpt from the debate from the bill we had before us four years ago. He led the floor fight to debate and kill this bill. But soon after, he found out, and I have a copy of the record and the report that indicated there

was no manned caboose after a point in time and a copy of a very, very, vehement letter that the gentleman wrote to that particular railroad Corporation. I have no notice if he ever got an answer. I guess I look at it sincerely as a safety issue and I am not a junior girl scout in that area as you all know.

I believe that at the hearing and in the halls you have heard about a new system that is supposed to take place of the caboose, its computerized system, it has an attached lighting system, it is supposed to be able to spot hot boxes on the train.

I guess I would ask the House Chair, if I may Mr. Chairman, to indicate to me how many rail systems...there are seven railroads operating in this state, how many of them have FRA approved equipment in hand and are they being used?

I would also ask the House Chair, if he knows if there are any trains currently operating in our state without cabooses, and what are they using as an alternative? I think that is vitally and critically important for us to know at this point in time. My own personal research and, it is backed up by a reporter who did equal like research in the middle part of this state, is that there is indeed a lot of trains operating with nothing on the back.

I would ask the members here to please recognize that we are not saying that there should be cabooses on every single train. We are talking about long trains. The firefighting community is opposed to the nonuse of cabooses when there is a fire or derailment problem, they need to approach that incident from two ends to get the information they need. There has been an increase in derailments in our state. I think that until we can have definite proof that end of train devices are available and being utilized, that we should indeed exercise our prerogative to say that public safety, in this instance, should come first. If you are living in a rural area, where the majority of the train intersections crossing highways are not marked with lights or gates, I believe that it is unconscionable to think that you wouldn't want to have an extra pair of hands or eyes at the rear of a very long train carrying hazardous materials through your town and cities.

So, I ask you please to defeat the motion before you, accept the Minority Report, give Representative Duffy the opportunity to present the amendment because I concur wholeheartedly that safety should not be negotiable.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative MCPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: The issue of operating or not without a caboose has been around since 1982, when it was the subject of extensive federal negotiations. The Presidential Emergency Board, which was established at that time, looked long and hard at the question of safety. Their findings were that a caboose could very well be removed without sacrificing safety to the public or to the employees.

Those of us on the committee that signed the "Ought Not to Pass" Report were convinced that this measure was a labor bill. Call it an end run if you want to around labor negotiations but the caboose was negotiated off the train, so to speak, and this is just a method of getting it back on.

I would ask you to support the House Chairman, Representative Theriault.

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

Representative THERIAULT: Mr. Speaker and Members of the House: I was asked a couple of questions which I would like to answer. The Boston and Maine is operating up to Portland and they provided me with a map of the loca-

tion of some of these devices that have been mentioned today like hot box detectors and dragging equipment detectors and also end of train devices. There was one of these devices, if I remember correctly from the map I was provided, in the vicinity of Kittery.

The other question was, if I was aware of any railroads in Maine, I believe that was the question, that was operating without a caboose and I know there is at least one train for the Bangor and Aroostook Railroad that was negotiated sometime ago where the caboose was no longer required. I don't know if this train is still operating or not, but I know for that particular train, that the caboose was negotiated away.

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 question through the Chair. The train that they talked about yesterday going through the City of Portland, did that have a caboose on it that caused all the fires?

The SPEAKER PRO TEM: The Representative from Portland, Representative Manning, has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: No, it did not have a caboose.

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

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate Representative Theriault responding to my questions. I would like to report, however, that you need to be mindful that the central offices of the Boston and Maine are not in Maine, they are in Massachusetts, and those trains run, I believe, only as far as Portland so that they are traveling the extreme southern part of the State of Maine.

I have before me the latest copy of the UTU News which is an official publication of that particular organization and it is dated 4/20/85 and the latest report put out by the National Transportation Safety Board now strongly suggests that the need for solving the increasing train problems is to put an additional man, a second qualified operator, in the cab of the train. So, if our transportation systems or the railroads in this state are worried about keeping a manned caboose operating, I wonder what in heavens name are they going to do when they have to add a third man in the cab?

The detectors work, they are being used nationally, two percent are utilized and here is a good example — according to a report here out of Montreal, one of their railway systems has installed 232 hot box detectors to date on lines near population centers at the cost of \$25 million. I think that we need to save what we believe is an enhancement to safety by having a manned caboose on long trains, not every single train, it is going to be a heck of a lot cheaper and won't make the railroads cry so hard.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative MCPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: Just to follow up on Representative Erwin's comments, she is right, there wasn't a caboose on the train and I followed it up a little further yesterday and the fire supposedly was reported by the engineer.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I read a little bit of an article and it said we were real lucky the wind wasn't blowing or it could have been a

real disaster because it was in a very hard spot to get at to fight and I guess there were about 15 fire trucks out to fight that and they were having a hard time to get at it. I don't think that we ought to be lucky about trying to get by without a caboose. If the wind is blowing real bad, we might have a real unlucky situation without a caboose.

I would also like to answer about that heat detector for hot boxes. As I understand it, these hot boxes have to be so hot in order for that detector to work, and if it doesn't, it could go within a half a mile even though the detector didn't get it. So, I would like to respond again, that this is a public safety bill. Let's not mix it up. And what other states do and what other people say isn't protecting the people of the State of Maine.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: Just a few points. Everybody is talking about hot boxes and all that stuff when you have a hot box, you have a hot box, and the caboose is not going to stop you from going off the track. When you have got a tractor trailer going down the road and you lose a wheel bearing, you have lost a wheel bearing and the wheel is on fire. I have watched cabooses all my life running out of Woodland and everytime I see a guardian, he is never in the caboose, he is always in the engine. I have talked to a lot of people around this country and there is hardly ever anybody in the caboose. When you have a train a mile and a half long and they are going around a corner, you don't know how many of those box-cars are going to come off that track. We have had this bill down in the room a long time. We have worked on it a long time. We have talked about negotiations and why is it that, just yesterday, that this was one of the safest bills to come out of this House this year.

Representative Duffy of Bangor was granted unanimous consent to address the House a third time.

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: Not to differ with Representative Moholland, but my father spent 44 years on the B & A railroad as a conductor, and I don't think he rode on the engine very much and he stopped a lot of trains that had hot boxes before they derailed. So, I know from whence we come, I know what we are talking about, this is a good safety bill.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: When these trains in the yard leave the yard, they always have a car knocker to come around and check all these boxes to make sure that they are all full of grease and all checked out for air and oil in these boxes. So I would like to bring that to the Representative's attention.

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

Representative BEAULIEU: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose her question.

Representative BEAULIEU: Representative Theriault, I believe some communication was forwarded to the committee by firefighting organizations in several communities throughout the state, could you indicate for us where and from whom these communications came in support of this measure?

The SPEAKER PRO TEM: The Representative from Portland, Representative Beaulieu, has posed a question through the Chair to Representative Theriault of Fort Kent, who may respond if he so desires.

The Chair recognizes that Representative. Representative THERIAULT: Mr. Speaker and

Members of the House: We did receive some letters from some fire departments. This was a long time ago, at least a couple months ago, and I forgot exactly how many we did receive but whatever number it was it was distributed to the members of the committee for their perusal.

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 Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, I request to pair my vote with the Representative from Corinth, Representative Strout. If he were here, he would be voting no; 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. 46

YEAS:—Baker, A.L.; Bell, Bonney, Bott, Bragg, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carter, Connors, Crouse, Davis, Dellert, Descoteaux, Dexter, Dillenback, Drinkwater, Farnum, Foss, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Jalbert, Kimball, Lander, Law, Lawrence, Lord, Manning, McPherson, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Parent, Pery, Pines, Pouliot, Racine, Randall, Rice, Ridley, Rioux, Salisbury, Scarpino, Sherburne, Small, Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Swazey, Taylor, Theriault, Vose, Webster, Wentworth, Wymouth, Whitcomb, Willey, Zirkilton

NAYS:—Aliberti, Allen, Beaulieu, Begley, Bost, Boutilier, Carroll, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Daggett, Diamond, Duffy, Erwin, Foster, Greenlaw, Hale, Handy, Higgins, H.C.; Hoglund, Jacques, Joseph, Lacroix, Lebowitz, Macomber, Martin, H.C.; Masterman, Matthews, Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Murray, Nadeau, G.G.; Nelson, O'Gara, Paradis, E.J.; Paradis, P.E.; Paul, Priest, Reeves, Richard, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Smith, C.B.; Tammaro, Tardy, Telow, Walker, Warren

ABSENT:—Armstrong, Baker, H.R.; Brodeur, Carrier, Crowley, Gwadosky, Kane, Lisnik, MacBride, Michael, Nadeau, G.R.; Seavey, The Speaker

PAIRED:—Moholland—Strout

73 having voted in the affirmative and 63 in the negative with 2 having paired and 13 being absent, the motion did prevail.

The Chair laid before the House the following matter: Bill "An Act to Amend the Municipal Development District Law" (H.P. 370) (L.D. 525) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Bost of Orono offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-97) was read by the Clerk and adopted.

On motion of Representative Higgins of Portland, retabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the following matter: Bill "An Act Concerning the Removal of Child Abusers from the Household" (H.P. 954) (L.D. 1373) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Nelson of Portland, retabled pending passage to be engrossed and tomorrow assigned.

#### Orders of the Day

The Chair laid before the House the first tabled and today assigned matter: An Act to Establish Fixed Dates for the Adjournment of the First and Second Regular Session of the Legislature (Emergency) (H.P. 928) (L.D. 1333).

TABLED—April 24, 1985, by Representative Diamond of Bangor.

PENDING—Passage to Be Enacted.

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

#### (Off Record Remarks)

On motion of Representative Lacroix of Oakland.

Adjourned until eleven-thirty tomorrow morning.