

# 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 30, 1985

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

Prayer by Reverend Douglas Drown, First Congregational Church, Bingham.

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 29, 1985

Honorable Edwin H. Pert

Clerk of the House

112th Legislature

Augusta, Me. 04333

Dear Clerk Pert:

Please be advised that the Senate today voted to Insist and Join in a Committee of Conference on "Resolve, to Name the Wiscasset Bridge the Donald E. Davey Bridge" (H.P. 373) (L.D. 492).

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Amend the Classification System for Maine Waters and Change the Classifications of Certain Waters" (S.P. 526) (L.D. 1421)

Came from the Senate, ruled not properly before that Body, being in violation of Joint Rule 24.

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

RESOLVE, Authorizing Continued Study of Information Processing in Social Service Agencies (Emergency) (S.P. 527) (L.D. 1422)

RESOLVE, Creating a Commission to Study Nursing Home Cost Containment in the State (S.P. 528) (L.D. 1423)

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

Was referred to the Committee on Human Resources in concurrence.

**Later Reconsidered**

Bill "An Act to Prevent the Hospital Cost Containment Law from Substituting for the Collective Bargaining Process" (S.P. 529) (L.D. 1424)

Was referred to the Committee on Labor in concurrence.

Bill "An Act to Amend the Law Relating to Employment and Dismissal of County Employees" (S.P. 530) (L.D. 1425)

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

Was referred to the Committee on Labor in concurrence.

On motion of the Representative from Portland, Representative Beaulieu, the House reconsidered its action whereby Bill "An Act to Prevent the Hospital Cost Containment Law from Substituting for the Collective Bargaining Process" (S.P. 529) (L.D. 1424) was referred to the Committee on Labor in concurrence.

On further motion of the same Representative, tabled pending reference and later today assigned.

Bill "An Act to Make Changes in the Laws Governing Public Utilities" (S.P. 531) (L.D. 1426)

Came from the Senate, ruled not properly before that Body, being in violation of Joint Rule 24.

(The Committee on Reference of Bills had

suggested reference to the Committee on Utilities.)

**Ought to Pass in New Draft**

Report of the Committee on Energy and Natural Resources on Bill "An Act to Provide for Adequate Funding of the Chemical Substance Identification Law" (Emergency) (S.P. 384) (L.D. 1064) reporting "Ought to Pass" in new Draft (Emergency) (S.P. 521) (L.D. 1405)

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 tomorrow.

**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 Revise the Statutes Relating to the Maine Milk Pool Law" (H.P. 997) (L.D. 1439) (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 Improve the Budgetary Process" (H.P. 992) (L.D. 1429) (Presented by Representative JACKSON of Harrison) (Cosponsor: Senator TWITCHELL of Oxford)

(Ordered Printed)

Sent up for concurrence.

**Education**

Bill "An Act to Establish a Uniform Method by Which the Authority to Confer Degrees by Colleges Operating in Maine is Authorized" (H.P. 993) (L.D. 1430) (Presented by Representative ROLDE of York)

(Ordered Printed)

Sent up for concurrence.

**Human Resources**

Bill "An Act Relating to Removal of Children from Certain Foster Homes" (H.P. 994) (L.D. 1431) (Presented by Representative ROLDE of York)

(Ordered Printed)

Sent up for concurrence.

**Legal Affairs**

Bill "An Act Concerning Notice of Legal Obligations of Marriage on a Marriage Certificate" (H.P. 995) (L.D. 1432) (Presented by Representative McHENRY of Madawaska)

(Ordered Printed)

Sent up for concurrence.

**State Government**

RESOLVE, to Establish a Study Commission on Government Competition with Private Enterprise (H.P. 996) (L.D. 1433) (Presented by Representative MURPHY of Kennebunk) (Cosponsors: Representatives SPROUL of Augusta, DESCOTEAUX of Biddeford, and Senator DANTON of York)

(Ordered Printed)

Sent up for concurrence.

**Orders****Later Today Assigned**

On motion of Representative CARTER of Winslow, the following Joint Resolution: (H.P. 991)

JOINT RESOLUTION EXPRESSING CONCERN OF THE LEGISLATURE OVER THE PROPOSED FURNISHING OF SALMON SMOLTS FOR COMMERCIAL USE

WHEREAS, the raising of salmon smolts is

funded by a direct tax on sporting equipment; and

WHEREAS, 2.2 million smolts are needed to meet the salmon restoration plan adopted for the State; and

WHEREAS, there are only 752,000 smolts now available which is far short of the amount planned; and

WHEREAS, many of the rivers listed will go without smolts until more are raised; and

WHEREAS, it has come to the attention of the Legislature that negotiations are about to take place to provide smolts to commercial operations at taxpayers' expense and the detriment of all plans; now, therefore, be it

RESOLVED: That We the Members of the 112th Legislature, now assembled in First Regular Session hereby express our concern over the proposed negotiations to furnish public-funded salmon smolts to commercial operations before the established restoration plan is fully implemented; and be it further

RESOLVED: That the Atlantic Sea Run Salmon Commission be informed that the Legislature does not favor any agreement between the commission and the United States Department of Fisheries and Wildlife to sell, barter or furnish in any way salmon smolts for the benefit of a commercial enterprise operating within the State; and be it further

RESOLVED: That a suitable copy of this resolution be sent to the Chairman of the Atlantic Sea Run Salmon Commission to indicate the concern of the Legislature.

Was read.

On motion of Representative Crowley of Stockton Springs, tabled pending adoption and later today assigned.

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Linwood Higgins of Scarborough be excused April 11 through April 22 for personal reasons.

Was read and passed.

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

Representative PAUL from the Committee on Legal Affairs on Bill "An Act to Permit the Secretary of State to Issue Work-restricted Drivers' Licenses to First Time OUI Offenders" (H.P. 462) (L.D. 663) reporting "Leave to Withdraw"

Representative CLARK from the Committee on Utilities on Bill "An Act to Limit Investments by Electric Companies in Certain Generating Facilities without Stockholder Approval" (H.P. 780) (L.D. 1101) reporting "Leave to Withdraw"

Representative RICHARD from the Committee on Utilities on Bill "An Act Clarifying the Authority of Utilities to Establish Disconnection and Deposit Rules" (H.P. 125) (L.D. 150) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Utilities on Bill "An Act Concerning Payment of Trustees of the Kingfield Water District" (Emergency) (H.P. 651) (L.D. 921) reporting "Leave to Withdraw"

Representative HIGGINS from the Committee on Taxation on Bill "An Act to Allow Municipalities the Option of Charging Reasonable Service Charges on Certain Tax Exempt Property" (H.P. 369) (L.D. 489) reporting "Leave to Withdraw"

Representative HIGGINS from the Committee on Taxation on Bill "An Act to Impose a Sales Tax on Media Advertising" (H.P. 539) (L.D. 766) reporting "Leave to Withdraw"

Representative LISNIK from the Committee on Appropriations and Financial Affairs on Bill "An Act to Complete the Maine Job Start Program Revolving Loan Fund" (H.P. 153) (L.D. 187) reporting "Leave to Withdraw"

Representative LISNIK from the Committee on Appropriations and Financial Affairs on Bill "An Act to Fund a Marketing Study on the Ef-

fects of Lowering Liquor Prices Throughout the State" (H.P. 18) (L.D. 16) reporting "Leave to Withdraw."

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

#### **Ought to Pass in New Draft**

Representative GWADOSKY from the Committee on State Government on RESOLVE, Pertaining to a State Employee Health Promotion (Emergency) (H.P. 697) (L.D. 992) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 990) (L.D. 1428)

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

#### **Ought to Pass in New Draft/New Title**

Representative GWADOSKY from the Committee on State Government on Bill "An Act to Establish the Least-cost Principle" (H.P. 609) (L.D. 879) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish the Departmental Indirect Cost Allocation Program" (Emergency) (H.P. 998) (L.D. 1440)

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

#### **Consent Calendar**

##### **Second Day**

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

(H.P. 873) (L.D. 1230) Bill "An Act to Increase the Allocation for Personal Services Expenditures under the Maine Hazardous Waste Fund for Fiscal Year 1985" (Emergency)

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 Shorten the Final Pay Settlement of Milk Dealers to Producers" (H.P. 981) (L.D. 1412)

Bill "An Act to Provide for Public Rest Rooms in Eating Establishments" (H.P. 980) (L.D. 1411)

Bill "An Act Requiring the Department of Educational and Cultural Services to Establish Models for Evaluating Teachers" (H.P. 989) (L.D. 1420)

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

#### **Passed to be Enacted**

##### **Emergency Measure**

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

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. 128 voted in favor of the same and 1 against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

##### **Emergency Measure**

An Act to Authorize a Self-liquidating Bond Issue for Waldo County for Renovation of and Addition to the Waldo County Court Facility (H.P. 282) (L.D. 352) (C. "A" H-78)

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. 121 voted in favor of the same and none against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

##### **Emergency Measure**

An Act to Amend the Effective Dates of

Various Parts of the Education Reforms Enacted in September 1984 (H.P. 720) (L.D. 1030) (S. "A" S-60)

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. 119 voted in favor of the same and none against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

##### **Emergency Measure**

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

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. 126 voted in favor of the same and none against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

##### **Emergency Measure**

An Act to Authorize a Self-liquidating Bond Issue for Waldo County to Construct a Building to House County Extension Services (H.P. 283) (L.D. 353) (C. "A" H-79)

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. 121 voted in favor of the same and none against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

##### **Emergency Measure**

An Act to Establish the Maine Conservation Corps (H.P. 849) (L.D. 1205) (H. "A" H-86)

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. 110 voted in favor of the same and none against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

##### **Later Today Assigned**

An Act to Require Completion of an Education Program in Order to be Eligible to Purchase an Initial Trapping License (H.P. 527) (L.D. 747)

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

On motion of Representative Jacques of Waterville, tabled pending passage and later today assigned.

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

An Act Pertaining to the Terms of Members of Transit District Boards (H.P. 650) (L.D. 920)

An Act Concerning Hunting with a Bow and Arrow on Privately Owned Property (H.P. 950) (L.D. 1348)

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

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

An Act to Assure Advocacy Services for Children with Learning Disabilities (S.P. 509)

(L.D. 1369)

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

An Act to Allow Educational Institutions within the State of Maine to Purchase State Surplus Property (H.P. 314) (L.D. 403) (C. "A" H-81)

An Act to Increase the Penalties for Stocking Fish in Inland Waters Without a Permit (H.P. 573) (L.D. 844) (C. "A" H-77)

An Act to Expand the Membership of the Maine Occupational Information Coordinating Committee (H.P. 730) (L.D. 1039) (S. "A" S-59)

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

The Chair laid before the House the following matter: Joint Resolution Expressing Concern of the Legislature Over the Proposed Furnishing of Salmon Smolts for Commercial Use (H.P. 991) which was tabled earlier in the day and later today assigned pending adoption.

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

Representative VOSE: Mr. Speaker, I move indefinite postponement of this Joint Resolution.

This is practically the same situation that we debated the other day at length and I don't intend to be lengthy today at all because I know everyone of us has a busy day.

The last time we voted on this particular bill, we voted to accept the Majority "Ought to Pass" Report. I then tabled it so I could find out whether or not we needed the bill. This Joint Resolution is intended to prevent the signing of an amended contract that is taking place at ten-thirty this morning over in the Atlantic Sea Run Commission Office. We have discussed this situation with, not only the Atlantic Sea Run Commission, and two of the Commissioners' have agreed that we are right, we have also discussed the situation with the Governor, who supports the Commissioners, we have discussed the situation with the congressional delegation who are in support, we have discussed the situation with the Fisheries and Wildlife, who again, are in support of our efforts. There isn't any reason, at this point in time, to make another attempt to submarine our efforts. This is a simple thing that we are trying to do, we are trying to help an industry in my hometown. This is a matter of jobs. I know that a lot of you people have been barged by telephone calls from constituents, namely salmon fishermen, the Rod and Gun Club and so on but I would ask you if you would be kind enough to bear this in mind, if you help my hometown, how much is it going to hurt those people who have called you? Have they said to you, "this is going to mean my job?" What have they told you? It is going to mean jobs in Eastport. There are 24 jobs and there are 14 part-time jobs -- 85 people depending upon that industry. They buy 500 tons of herring from the local fishermen, they pay taxes, they are paying back a UDAG loan.

One development, which I am quite pleased about and I don't know the end result, is that Ocean Products is also negotiating with a firm in New Hampshire for purchase of smolt. They have to run the same gauntlet as they did before -- the lady there, as I understand it from one of colleagues, said that she has 75,000 healthy smolts. That might very well be true and I like to hope that she does but, however, the biologists of Maine have to determine whether or not they can come into the State of Maine. If we had been able to buy 100,000 smolts from New Brunswick last year, that would have been fine. They had 100,000 healthy smolts too but our biologists said, no, you cannot get them. The odd part of it is, it is not money, it is that little illusive six inch by 2 ounce salmon smolt that we are asking for.

I want to remind you also that if, in the event 50,000 smolts, which is the figure now we are tossing around, is given to Ocean Products, there still will be 700,000 stocked in the rivers, which is the third highest stocking in the 25 year history of the stocking of the rivers or the restoration.

Also, I want to remind you that the department has indicated that in the 1983 contract, which incidentally, does not expire until 1988, they have 1988 to pay back and they will, -- in that contract, it very clearly stated that by allowing aquaculture to take place in the State of Maine, it will enhance the restoration program. If it works, there will be plenty of available juvenile smolt and juvenile fish, mostly fry and eggs available for the stocking program. We intend to augment that program if we are successful.

I am standing up here speaking for jobs for my town of Eastport. There are going to be others up here on the floor talking about something for their town and, if you look at my voting record in the seven years that I have been down here, you can rest assured that they have always had my vote in support of their efforts. My record has been very clear on that. We are not asking for the moon, we are asking you to give us a chance.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is pretty difficult to speak against my good friend from Eastport. He is pleading for his area. Two years ago, I heard the same plea and I was just adamantly opposed for the state to lend out its scarce smolts as I am today. But due to his eloquent plea and the circumstances that I knew him, after all, I was assured that it was a one shot deal, I went along with it. Since that time, the state has adopted a salmon restoration plan. The salmon restoration plan calls for in excess of 2.2 million smolt a year to restore the salmon in the state. The fishermen in the state who participate in this program were encouraged by the direction that the state was going, so much so that they chose to go along with the license fee increase from \$1.00 to \$10.00 per resident and \$30.00 for a non-resident in one year. Now before the plan is even implemented, we are going to change the rules of the game.

When the bill was indefinitely postponed the last time we debated it, I was told that the U. S. Fisheries and Wildlife in Boston would not approve of the lending of these smolts because they feared it would jeopardize the U. S. Canadian Salmon Treaty, which is now in progress. Low and behold, pressure came down from Washington -- a Senator and a Congressman leaned on the director, who in turned, leaned on the people in Boston and they reversed their position. There is going to be a meeting this morning, as you heard at ten-thirty, and the Salmon Commission is expected to go along with the motion to allow OPI to get smolts. They already owe the state a 100,000 smolts and they contracted to repay a million fry a year for five years or other compensation. We haven't seen one fish yet and we were just told that the contract expires in 1988.

Another thing that bothers me tremendously, I happen to be the Chairman of the Atlantic Sea Run Salmon Advisory Council, and when the Commission wants to accomplish something, they consult the council. In this situation, they have totally ignored the council. So I would ask you not to go along with motion to indefinitely postpone.

There is one more reason that I think you ought to be aware of. It is my understanding that there are 75,000 smolts available in New Hampshire, S-1 smolt, top grade, they were available before OPI came to the legislature. Some people in the administration cannot understand why they came to the legislature

first instead of going directly to New Hampshire to purchase those smolts. It makes me wonder and I would urge you not to go along with the motion to indefinitely postpone.

Mr. Speaker, when the vote is taken, I would ask for the yeas and nays.

The SPEAKER: A roll call has been requested.

The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: Having voted on the prevailing side when this was an L.D., I feel that I should make some comment on this issue especially where it came up in front of our committee in Marine Resources. I think this Resolution is a real overkill.

If we were to analyze the whole project here, I have more friends that are salmon fishermen and I don't have any friends in Eastport unless it is Representative Holloway's mother that I met once so in taking a stand on this thing, I am really going against all the people I have known for many, many years but I feel that we are putting a million dollars a year into raising salmon. I think \$800,000 is federal money and over \$200,000 is state money. I appreciate the salmon fishermen, and as I said, they are friends of mine, but they are catching, I think, 700, 800 salmon in the State of Maine -- I think one year it went down as low as 300 and something, just two or three years ago, it isn't as lucrative a business as it is made out to be. As I said, I believe in it, I think we are raising salmon for the Canadian fishermen to catch up around Newfoundland.

We were told of the millions and millions of dollars that this brought into the State of Maine by having these out-of-state non-resident fishermen come and spend \$30.00 for a license -- imagine \$30.00 bucks for a license -- if you went to Canada to fish one day for salmon, it would cost you a \$100.00 so we are charging them \$30.00 and there were only 362 non-resident fishermen last year. They aren't bringing in millions and millions of dollars. I think if we go along with what we have been doing, I hope they get the salmon smolt, the rivers will still get 250,000 more smolt than they have been averaging in the last umpteen years. So they are really not short-changed.

If anyone is leaning on anyone, I think we are being leaned on by trying to help Eastport with this little project. It is not going to hurt anyone and I would rather see a million dollars go into lobster fishing than I would salmon fishing actually.

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

Representative CONNERS: Mr. Speaker, Ladies and Gentlemen of the House: Right now we have 75,000 smolts available out of the New Hampshire hatchery. There are 30,000 on hand in the hatchery in Deblois that they have leased. That makes over 100,000 smolts that the company could have. Smolts have also been available in Scotland and I don't think that a concerted effort has been made to get any smolts from there. Now, this company has around \$5 million from federal and state government money. It has less than a half a million from a bank in eastern Maine, now they want us to furnish their product. They want us to furnish their product so that all they have to do is feed and care for these and then put them onto the open market for sale to make a profit. This program of restoration of the Atlantic Salmon in the rivers in the State of Maine should be continued without interference from private industry.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I didn't come here this morning really to discuss smolts. I am

new in the House and I guess I need to be taught a lesson and the fine gentleman from Eastport is certainly doing a good job in teaching that lesson. I understood when I came here that the House had certain prerogatives as a legislature. A week and a half or two weeks ago, this House took a certain bill to give those smolts to OPI and it took that bill and indefinitely postponed it. Now, I think what we are seeing here today, what we are going to be seeing at that meeting at 10:30, is an end run around the prerogatives of this Legislature. That upsets me. This House did vote, it did act, and I think today, this morning we should protect our own prerogatives and vote to defeat the motion of indefinite postponement.

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind the previous gentleman that I indefinitely postponed my own bill and clearly stated the reasons why. It was because we didn't need the bill, which is apparent with the happenings that are going on this morning. There was no vote taken on the indefinite postponement of the bill, it went under the hammer. The only vote that was taken was the vote to accept the Majority "Ought to Pass" Report, a ten to three report. That was the only vote taken in this House.

Anyone that says that, when you have a bill alive, even though it may have an emergency preamble on it that it is going to die, then it is true, they haven't been around too long. You can turn bills around like it is going out of style if you work it right. I think everybody in this House knows that.

I take exception when the gentleman from Franklin said there are 75,000 smolt available in New Hampshire. Once again, I reiterate, there is 75,000 smolt there but they also have to be approved by the biologists. If all we had to do was go buy smolt, there would be nothing to it. There is 100,000 smolt in New Brunswick, there is other smolt in Scotland. We don't know yet, that is the problem. We don't know. They have not been approved by the biologists. They want to be sure there is no diseased smolt coming in and I agree with that. I have no hang-up on that.

As far as money is concerned, money hasn't been an object. We have a firm, ready and willing to invest another \$1.6 million into it, and I repeat they are going to put \$900,000 into a hatchery. They are going to be raising more smolt, there will be more fry around here by the time they finish, if they are successful, than any one of the rivers can use. We will be throwing it in like it is going out of style if, if, we are successful. I have to put that if in because you have to realize when you go to a bank and you borrow money for a business, they are taking an educated gamble. All I am asking here is for you to support the efforts of my home town to have a going aquaculture farm there. They have been successful with the product. Unfortunately, they lost 30,000 smolt. I am not going to go on much longer because I promised when I was down at the podium to limit the debate. Once again, I will not talk again, I am asking you to please support my motion to indefinitely postpone.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Eastport used the word "if". I want you to remember that word "if" because it plays a very important part in this debate. "If" U. S. Fish and Wildlife in Boston had not indicated in writing to the good gentleman from Eastport that they were not going to allow smolts into the state for OPI, he would not have withdrawn his bill.

The SPEAKER: The Chair recognizes the

Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: Just a short comment and actually it has nothing to do with fish but I think we should be real concerned about the precedent that this Resolution may be setting. This legislature has created many boards and commissions in this state and vested in those boards and commissions varying powers and authorities. All that the Atlantic Sea Run Commission is doing is operating within the guidelines that have already been set for it. Now, I have no doubt that there have been actions taken by boards and commissions of this state that every one of us has disagreed with. I know there certainly have been ones that I have disagreed with but, if each one of us every time a board did something we didn't agree with, put in a Joint Resolution saying that we didn't agree with it, we wouldn't have enough time to deal with the bills we have. We would just be dealing with the Resolutions of peoples complaints with the way the boards are acting. Based on that, I would ask you to support the motion to indefinitely postpone and let the commission to get on with its business.

The SPEAKER: The Chair recognizes the representative from Madawaska, Representative McHENRY.

Representative McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I had no intention of speaking on this issue but these monies that are buying these fish are dedicated revenues from the Fisheries and Wildlife. The fishermen are paying for these fish and is it any wonder that the department is in trouble, if they keep doing things like this?

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

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

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

Representative HOLLOWAY: Mr. Speaker, Men and Women of the House: There is only one issue here that I think you have to decide right now and that is if this commission is going to circumvent the vote of the legislature. That is the question.

The SPEAKER: The pending question before the House is the motion of the Representative from Eastport, Representative Vose, that the Joint Resolution be Indefinitely Postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 47

YEAS:—Aliberti, Baker, H.R.; Beaulieu, Brannigan, Brodeur, Carrier, Carroll, Cashman, Chonko, Coles, Crowley, Descoteaux, Dexter, Diamond, Erwin, Gwadnosky, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Jalbert, Kane, Lacroix, Manning, Martin, H.C.; Matthews, McCollister, McSweeney, Michael, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, O'Gara, Paradis, P.E.; Paul, Perry, Pouliot, Priest, Randall, Richard, Rioux, Rolde, Rotondi, Rydell, Scarpino, Simpson, Smith, C.B.; Stevens, P.; Tammara, Vose, Walker, Warren, Willey.

NAYS:—Allen, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bost, Bott, Bragg, Brown, A.K.; Cahill, Callahan, Carter, Clark, Connors, Cooper, Cote, Crouse, Daggett, Davis, Dellert, Dillenback, Drinkwater, Duffy, Foss, Foster, Greenlaw, Hale, Harper, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Jacques, Joseph, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Masterman, McGowan, McHenry,

McPherson, Murphy, E.M.; Murphy, T.W.; Nickerson, Paradis, E.J.; Parent, Pines, Racine, Reeves, Rice, Ridley, Roberts, Ruhlén, Salsbury, Sherburne, Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Tardy, Taylor, Telow, Theriault, Webster, Wentworth, Weymouth, Zirkilnton.

ABSENT:—Boutilier, Brown, D.N.; Connolly, Farnum, Hepburn, Mayo, Melendy, Michaud, Seavey, Small, Whitcomb, The Speaker.

59 having voted in the affirmative and 80 in the negative with 12 being absent, the motion did not prevail.

Thereupon, the Resolution was adopted.

The SPEAKER: Is there objection to the Resolution being sent forthwith to the Senate? There is no objection.

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

Representative CARTER: Mr. Speaker, I move that the rules be suspended for the purpose of sending the paper forthwith.

The SPEAKER: The Chair will order a vote. The pending question before the House is suspension of the rules. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

82 having voted in the affirmative and 54 in the negative, the motion did not prevail.

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

#### Reports of Committees

##### Ought to Pass in New Draft/New Title

Representative HICKEY from the Committee on Aging, Retirement and Veterans on Bill "An Act to Prevent Double Benefits for the Same Period of Service, to Provide Membership as of the Effective Date of First Contributions and to Provide that Benefits be Paid only to Members, their Dependent or Beneficiaries" (H.P. 403) (L.D. 556) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Prevent Double Benefits for the Same Period of Service, to Provide Membership as of the Effective Date of First Contributions and to Provide that Benefits be Paid only to Members, their Dependents or Beneficiaries" (H.P. 999) (L.D. 1441)

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

#### Consent Calendar

##### First Day

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

(H.P. 426) (L.D. 606) Bill "An Act to Clarify the Definition of Spouse and to Add a Definition of Substantial Gainful Activity" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-102)

There being no objections, the above item was ordered to appear on the Consent Calendar of Wednesday, May 1, 1985 under the listing of Second Day.

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

#### Consent Calendar

##### First Day

(S.P. 444) (L.D. 1247) Bill "An Act Relating to Regulation Fees Under the Manufacturing of Bedding, Upholstered Furniture and Cushion Law" Committee on Business and Commerce reporting "Ought to Pass"

(H.P. 279) (L.D. 349) Bill "An Act to Amend the Law Concerning Smoke Detectors in all Unliapartment Dwellings" Committee on Legal Affairs reporting "Ought to Pass"

(H.P. 152) (L.D. 186) Bill "An Act to Establish a Fire Fighter Training Facilities Grant Program" Committee on Appropriations and

Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-100)

There being no objections the above items were ordered to appear on the Consent Calendar of Wednesday, May 1, 1985, under the listing of Consent Calendar second day.

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

#### Passed to be Enacted Emergency Measure

An Act Making Supplemental Allocations from the Highway Fund for the Fiscal Year Ending June 30, 1985 (S.P. 322) (L.D. 811)

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. 126 voted in favor of same and none against, and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act to Provide for the 1985 Amendments to the Maine Housing Authorities Act (H.P. 413) (L.D. 580) (C. "A" H-82; S. "A" S-62)

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. 122 voted in favor of the same and none against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Regulate Public Swimming Pools and Spas (S.P. 135) (L.D. 374) (C. "A" S-57)

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

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: The only thing I would like to ask, could somebody from the committee explain to me what this bill does?

The SPEAKER: Representative Clark of Millinocket poses a question through the Chair to any member of the Committee on Human Resources who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Nelson.

Representative NELSON: Mr. Speaker, Men and Women of the House: If you read the Statement of Fact, it tells you exactly what it does. Some Statement of Facts don't but this does.

This amendment to the bill limits the scope of the department review and regulation of public swimming pools and spas to matters of safety and sanitation. It also deletes an unnecessary provision which implied that all facilities were required to have bath houses and adds language to ensure that a lifeguard is not required by this bill. This amendment also deletes the provisions for a fine for violation of this chapter. It is basically safety and sanitation, it is not any other reason for the introduction.

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

An Act Relating to the Assessment of Storage Fees by Motor Vehicle Service Stations (S.P. 296) (L.D. 785) (C. "A" S-58)

An Act Concerning Land Conveyed by the State to the Town of Bridgton (S.P. 337) (L.D. 787)

An Act to Raise the Amount over which Contractors must Seek Municipal Bonding (S.P. 314) (L.D. 803) (C. "A" S-56)

An Act to Amend the Department of Environmental Protection Laws (S.P. 414) (L.D. 1144) (S. "A" S-61)

An Act to Require Newly Appointed Coun-



ty and Municipal Law Enforcement Officers to Complete a Basic Training Course within the First 6 Months of Their Employment (S.P. 513) (L.D. 1387)

An Act to Authorize the Use of Blue Lights on Liquor Enforcement Vehicles (S.P. 519) (L.D. 1393)

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

An Act to License Dietitians (S.P. 520) (L.D. 1397)

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

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I request a roll call on enactment of this bill.

If you recall last week, when this bill appeared before this body, some objections were raised concerning whether or not dietitians should be licensed. At that time, I had some concerns and I still have those same concerns today. As a matter of fact, I received a phone call over the weekend from a dietitian and, in our discussion pertaining to the merits of this bill, I asked a question: how many dietitians do we have within the State of Maine? The response was, around 200. Then the next question was, how many dietitians actually work in hospitals? The answer was that the majority work in a hospital. There was another question that was put forward which was, don't you think that hospitals, before they hire dietitians, make sure that they are educationally qualified and have all of the requirements to be able to perform their duties? The answer was, yes that there are no problems associated with dietitians that work in hospitals. Again, I question whether or not there is a need to license dietitians.

Now if you will just bear with me for a minute, I have in front of me a book and it is called "Occupational Licensing Questions a Legislator Should Ask". This is put out by the Council of State Government of which a lot of us are part of. I would like to quote directly from this book. "Proponents of licensure, be they the public or an occupational group, frequently argue that regulation is needed to protect the public health, safety and welfare. Often however, the occupational group is the major beneficiary of licensing licensure law. Licensed practitioners gain an exclusive right to deliver services. They may then ask the board, made up of fellow practitioners, to use its power to restrict entry into the field by setting high education and experience requirements giving difficult tests and erecting barriers to keep out practitioners from other states. Thus, the licensed group may establish a monopoly condition which enables it to control the availability and cost of services and restrict competition by prohibiting advertising competitive bidding, etc., etc." I feel that, in this particular instance, that there is no need -- the need has not been demonstrated that the public has to be protected from dietitians out in the field.

So, I would urge you to vote against the enactment of this bill.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: As I said in the initial presentation of this Bill, this is part of the movement of health care from the hospitals into the community. The majority of nurses work in hospitals but we have for many, many years licensed them and LPN's also. But, it is a movement from the hospital setting into the community setting, more and more dietitians are working in private practice in the com-

munity. We wish to see those people who hold themselves out to have this high training in dietetic work be available for people with a need for it.

Therefore, I urge you to continue to support the committee and support the vote last week in passage of this bill.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the Chairman of the Committee.

What effect does this have on the employees of the school department for the lunch program?

The SPEAKER: Representative Jalbert of Lisbon has posed a question through the Chair to Representative Brannigan of Portland, who may answer if he so desires.

The Chair recognizes that Representative. Representative BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: If a school department were to hire a dietitian, then they would be hiring someone who is licensed under this bill. It is my understanding that in the majority of cases that is not true.

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

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

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

#### ROLL CALL No. 48

YEAS:—Aliberti, Armstrong, Baker, A.L.; Baker, H.R.; Beaulieu, Begley, Bell, Bost, Bott, Brannigan, Brodeur, Carroll, Chonko, Coles, Connolly, Cooper, Cote, Davis, Dellert, Descoteaux, Diamond, Dillenback, Erwin, Foster, Gwadosky, Hale, Handy, Harper, Hayden, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Holloway, Jalbert, Lawrence, Lebowitz, Lisnik, MacBride, Manning, Martin, H.C.; Matthews, McGowan, McSweeney, Michael, Michaud, Mitchell, Murphy, T.W.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, P.E.; Paul, Perry, Pines, Priest, Randall, Rice, Richard, Rioux, Roberts, Rydell, Small, Soucy, Sproul, Taylor, Telow, Vose, Walker, Warren, Webster, Wentworth.

NAYS:—Allen, Bonney, Bragg, Brown, A.K.; Cahill, Callahan, Carter, Cashman, Clark, Connors, Crouse, Crowley, Daggett, Dexter, Drinkwater, Duffy, Farnum, Foss, Greenlaw, Ingraham, Jackson, Jacques, Joseph, Kimball, Lacroix, Lander, Law, Lord, Macomber, Masterman, Mayo, McColister, McHenry, McPherson, Mills, Moholland, Murphy, E.M.; Murray, Nadeau, G.G.; Paradis, E.J.; Parent, Pouliot, Racine, Reeves, Ridley, Rolde, Rotondi, Ruhlén, Scarpino, Sherburne, Simpson, Smith, C.B.; Smith, C.W.; Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Theriault, Weymouth, Willey, Zirkilton.

ABSENT:—Boutilier, Brown, D.N.; Carrier, Hepburn, Kane, Melendy, Salisbury, Seavey, Whitcomb, The Speaker.

76 having voted in the affirmative and 65 in the negative with 10 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Provide an Exemption from the 7-Day Loaner Plate Limitation (H.P. 430) (L.D. 610) (H. "A" H-87)

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

The following item was taken up out of order by unanimous consent:  
Tuesday, April 30, 1985

#### ADMINISTRATIVE SUPPLEMENT

Reference is made to (H.P. 373) (L.D. 492) RESOLVE, to Name the Wiscasset Bridge the Donald E. Davey Bridge.

In reference to the action of the House on Friday, April 26, 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 MAYO of Thomaston  
Representative MILLS of Bethel  
Representative STROUT of Corinth  
(At Ease)

(Off Record Remarks)

#### Orders of the Day

Out of order, by unanimous consent, the Chair laid before the House the second matter of Unfinished Business:

Bill "An Act to Prescribe when a Caboose is Required in Connection with Movements of Locomotives and Cars" (H.P. 50) (L.D. 56)

TABLED - April 26, 1985 by Representative THERIAULT of Fort Kent.

PENDING - Motion of Representative CROUSE of Caribou to Reconsider Acceptance of the Majority "Ought Not to Pass" Report of the Committee on Transportation.

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

Representative MCPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: This move on the part of the proponents of this bill is that old attempt used many, many times to save a bad bill. The Transportation Committee recognizes this bill as a subject that should be and is, in fact, being negotiated by labor and management in this state. If it is truly a safety issue, it should be settled on a federal level as are trucking rules and regulations, airline rules and regulations, all of those of the transportation industry to establish interstate uniformity. It is a bad bill and, as I have said before, it is nothing more than an end run around the negotiating table where this item belongs.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: This is not a bad bill, this is a purely public safety bill, we are going to say it now and I will tell you again. I object to certain language in that now and I ask you to bear with me and I will amend it when it gets to second reading and it will be a purely public safety bill.

In the last debate, and I won't prolong this one so we can go to voting on it, bothered me that they run trains in other states without cabooses and they haven't stopped them yet. Well, one accident, ladies and gentlemen, will stop them and they are going to want to know why nothing was offered for safety precautions and no caboose was on those trains and all it is going to take is one accident in this state to say, why didn't we do something when we had the chance? I will say it one more time, it is a public safety bill. I feel strongly about that part of it. It doesn't need to be negotiated, it shouldn't be negotiated, and it should be made law.

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

Representative SOUCY: Mr. Speaker, Ladies and Gentlemen of the House: I think one of the things that really disturbed me particularly last week when they talked about a safety bill is, why did we have lobbyists from out of state? We did have them, they were around here, they didn't talk to me, obviously. Now, if this is a local or State of Maine safety bill, then why

are they here? Why is someone from Pennsylvania here? And I think New Jersey.

Representative Cahill requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Caribou, Representative Crouse, that the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted.

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

Representative MICHAUD: Mr. Speaker, I request permission to pair my vote with the Representative from Westbrook, Representative Carrier. If he were present and voting, he would be voting no; I would be voting yes.

The SPEAKER: The pending question before the House is the motion of the Representative from Caribou, Representative Crouse, that the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 49

YEAS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Begley, Bost, Brodeur, Carroll, Carter, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crouse, Diamond, Duffy, Erwin, Foster, Greenlaw, Gwadosky, Hale, Handy, Hayden, Higgins, H.C.; Hoglund, Jacques, Joseph, Kane, Lacroix, Lisnik, Macomber, Martin, H.C.; Masterman, Matthews, Mayo, McCollister, McGowan, McHenry, McSweeney, Michael, Mills, Mitchell, Murray, Nadeau, G.G.; Nadeau, G.R., Nelson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Priest, Randall, Reeves, Richard, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Smith, C.B.; Strout, Tammaro, Tardy, Telow, Warren, The Speaker.

NAYS:—Armstrong, Baker, A.L.; Bell, Bonney, Bott, Bragg, Brannigan, Brown, A.K.; Cahill, Callahan, Connors, Davis, Dellert, Descoteaux, Dexter, Dillenback, Drinkwater, Farnum, Foss, Harper, Hichborn, Hickey, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lord, MacBride, Manning, McPherson, Moholland, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Perry, Pines, Pouliot, Racine, Rice, Ridley, Rioux, Salisbury, Scarpino, Sherburne, Small, Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Swazey, Taylor, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Wiley, Zirnkilton.

PAIRED:—Carrier-Michaud.

ABSENT:—Boutilier, Brown, D.N.; Crowley, Daggett, Hepburn, Melendy, Seavey, Whitcomb.

71 having voted in the affirmative and 70 in the negative with 8 being absent and 2 paired, the motion did prevail.

The SPEAKER: The pending question now before is acceptance of the Majority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Woolwich, Representative Cahill.

Representative CAHILL: Mr. Speaker, Men and Women of the House: We have heard that it is a safety issue regarding the caboose issue and the question in lots of instances is about fire because the smoke stack on the train has been setting lots of fires -- I submit to you that this is not a valid argument. Under Title 12, 9401, it says: "whenever in the judgement of the Director of Woodland along the railroad transverse the forest land to the state are in

dry and dangerous conditions, he shall maintain a competent and efficient fire patrol along the right of way of lands of such railroads if, in his judgement, a satisfactory railroad fire patrol is not being provided." That was the case on the Searsport branch just this week, just yesterday, the fire warden felt that there were very dry conditions and sometimes when a spark is emitted, it doesn't necessarily break into flames right away and certainly not by the time that the caboose has gone by so we have something in our laws to protect us from fire problems already. I submit to you that the fire argument is not valid.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to say this but that is sort of like closing the barn door when the horse is gone, that we only need some protection part of the time and if somebody is responsible, they can once in awhile do some protection.

All I urge you to do is give me a chance to correct this bill in second reading, that we vote no against the motion "Ought Not to Pass" and give me a chance.

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

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

Is the Maine Central Railroad currently negotiating getting the cabooses off the railroad?

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

The Chair recognizes the Representative from Portland, Representative Beaulieu.

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: My information is that they are not.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: My information from the people at the Maine Central Railroad is that they are currently in negotiations. I called the head of Labor Negotiations the other day because I am aware of safety issues but one of the things that I have always addressed in this House is that we, the legislature, never should put on statutes something that should be negotiated back at the homefront.

This bill started in 1981 when, the UTU sat down on national negotiations and settled between 30 and 36 percent wage increase for the next three years. Part of that negotiation was that they were to go back to their local unions and to negotiate whether or not the cabooses should be taken off. They had to negotiate that, that was part of the agreement. When someone says, well, they had to negotiate it because they stuck their guns to the head -- I would like to have a 10 percent increase a year for the next three years and I think most people in this House would also -- that isn't sticking the gun to their head.

The Boston & Maine, which does not have a caboose on its trains now, which this bill will affect now and which this bill will also affect Maine Central Railroad and other railroads, did not have in their contract a statement that said they had to have cabooses so, therefore, they pulled the cabooses off. The Boston & Maine, right now, is in current negotiations with UTU on taking off the cabooses. If they cannot agree, it has to go to an arbitrator, that was part of the agreement in 1981. When this House puts a piece of legislation on the books, it circumvents the labor negotiations, I don't think that's exactly what the people of this state want

us to do. It is not a safety issue, in my opinion, it is strictly a labor negotiation issue.

Representative McPherson requested a roll call.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: We sat down and went over this bill thirty or forty times -- there is no safety in it. There was a gentleman there from Minnesota talking about negotiations. Everything the railroad and the union talked about was negotiations.

If you put a caboose on the back of a train, that is their prerogative, they can put it on or take it off. What are you going to do in a rainstorm? Do they have windshield wipers on it? When it snows -- how are you going to see out of the windows? When you have a hotbox, the fire is already started.

I think the safety thing is just a gimmick to get this bill passed. We worked hard on it two years ago, we worked hard on it this year and I hope that you defeat this bill.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Higgins.

Representative HIGGINS: Mr. Speaker, Men and Women of the House: I feel very confident that it is a safety issue. I would like to bring to your attention three paragraphs in a newspaper article that was in the Portland Press Herald or Evening Express last week. "Fires scorches several dozen acres of grass and brush off Brighton Avenue this morning and for a time causing thick smoke that had threatened to close off the Maine Turnpike. Officials at the scene attributed the fires to sparks from a passing train. At least three fires broke out about 8:30 a.m. in scrub brush abutting the Maine Central Railroad tracks paralleling Brighton Avenue in the areas of Rowe Avenue and Capisic Street. No estimates of the acreage burned had been made later in the day but one hot spot behind Vallee's Restaurant appeared to have blackened about a dozen acres including a ribbon of brush and grass directly along the railroad tracks."

It is my position and I hope it is the position of this House that this is, indeed, a safety issue.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often that I go against my colleague and my neighbor from my home city but I want to report that that also was reported by, as Representative McPherson said last week, by the engineer on the train and not any caboose.

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

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

The SPEAKER: The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, I request permission to pair my vote with the Representative from Westbrook, Representative Carrier. If he were present and voting, he would be voting yes; I would be voting no.

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

#### ROLL CALL No. 50

YEAS:—Armstrong, Baker, A.L.; Bell Bonney, Bott, Brannigan, Brown, A.K.; Cahill, Callahan



Conners, Crouse, Davis, Dellert, Descoteaux, Dexter, Dillenback, Drinkwater, Farnum, Foss, Harper, Hayden, Hichborn, Hickey, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Manning, Masterman, McPherson, McSweeney, Moholland, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Parent, Perry, Pines, Pouliot, Racine, Randall, Rice, Richard, Ridley, Rioux, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Swazey, Tammaro, Taylor, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkillton.

NAYS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Begley, Bost, Brodeur, Carroll, Carter, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Diamond, Duffy, Erwin, Foster, Greenlaw, Gwadosky, Hale, Handy, Higgins, H.C.; Hoglund, Jacques, Joseph, Kane, Lacroix, Macomber, Martin, H.C.; Matthews, Mayo, McCollister, McGowan, McHenry, Michael, Mills, Mitchell, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, E.J.; Paradis, P.E.; Paul, Priest, Reeves, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Strout, Tardy, Telow.

PAIRED:—Carrier-Michaud.

ABSENT:—Boutilier, Brown, D.N.; Crowley, Daggett, Hepburn, Melendy, Seavey, Warren, Whitcomb, The Speaker.

80 having voted in the affirmative and 59 in the negative with 10 being absent and 2 paired, the motion did prevail.

Sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Prevent the Hospital Cost Containment Law from Substituting for the Collective Bargaining Process" (S.P. 530) (L.D. 1425) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Nelson of Portland, was referred to the Committee on Human Resources in non-concurrence and sent up for concurrence.

#### (Off Record Remarks)

Representative Jalbert of Lisbon was granted unanimous consent to address the House:

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: Today marks the 10th anniversary of the cessation of hostility in Southeast Asia, which marked the end of the Vietnam Conflict. Unfortunately, this was a time in our history which produced a vast division in our nation but time heals all wounds and these wounds have been healed. We should not forget the thousands of young Americans who sacrificed much, especially those who gave the supreme sacrifice, so Mr. Speaker, I would ask that we adjourn in memory of the thousands of young Americans who died in the Vietnam War.

On motion of Representative McSweeney of Old Orchard Beach, adjourned until nine o'clock tomorrow morning in memory of the thousands of young Americans who died in the Vietnam War.