

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Twelfth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

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

## HOUSE

Monday, May 13, 1985

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

Prayer by Reverend Theodore Poland, United Methodist Church, North Anson.

National Anthem by the Brunswick High School Band.

Quorum called; was held.

The Journal of Friday, May 10, 1985 was read and approved.

## Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act to Protect Lobster Gear" (H.P. 445) (L.D. 627) have had the same under consideration and ask leave to report:

That the House Recede from Passage to be Engrossed; that Committee of Conference Amendment "A" (H-130) be read and adopted and the Bill Passed to be Engrossed as Amended by Committee of Conference Amendment "A" (H-130) in non-concurrence.

That the Senate Recede and Concur with the House.

(Signed) Representative ROLDE of York, COLES of Harpswell and RICE of Stonington—of the House.

Senator CHALMERS of Knox, BUSTIN of Kennebec and SHUTE of Waldo—of the Senate. Was read.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I move that we reject the Committee of Conference Amendment "A" (H-130).

This was a bad bill when we passed it and the other body rejected it. The Committee of Conference Bill here I personally think is even worse and we will probably pass this too. I asked two members of the Committee of Conference what they thought about this amendment and why they voted for it—one said that he had a lot of lobster fishermen in his area and the other told me that it was a dumb bill.

This is the bill that has the spur on the shaft of the boats in the water and now there is an exception that the cutting device shall be lawful if the device and the propeller shaft to which it is tacked are enclosed by a protective case. We are going to put the spur in a cage.

Another thing, if you look at the Statement of Fact is, it says "the violation of this section is considered a Class D crime under general provisions of the marine laws and is punishable by a fine of up to \$1,000 and imprisonment for a period of one year."

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

Representative COLES: Mr. Speaker, Men and Women of the House: As before, these cutting devices, these lobster spurs, are intended to cut fishing gear. They have no other real purpose. This amendment allows them to be used in certain circumstances where fishermen and others have taken steps already to protect fishing gear as it passes through the water.

This amendment is not a dumb bill and I may be one of the lobsterman in his district, I don't know, but I know that every one of those lobstermen are very worried about these devices becoming widespread in this state and losing a lot of gear as a result. Every singly buoy out there represents a minimum investment of a least \$50.00 and a lot of income lost if the buoy and the gear is lost.

A man from a boating magazine interviewed me last week on the phone. He told me a story of a twin screw cruiser going out of Cape Porpoise with these devices on the screws, they roared through an area full of lobster buoys and he said it looked like a mine sweeper had gone

through it, the was so clean afterwards, the buoys drifting off the tide.

I ask you very strongly to support this bill and reject the motion on the floor.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I didn't speak on this issue when it was here before although I have had a number of cabin cruisers on the ocean for a lot of years and I am quite familiar with most of the problems out there. I think the amendment is bad because it says you can have the cutting device provided you arrange so it can't cut anything. That doesn't make a whole lot of sense to me.

If you are out there in the water, frequently on the coast of Maine, it is foggy. Sometimes it is real foggy, sometimes you can't even see the bow of the boat so you go by compass. You set a course from one mark to another, whether they are a few hundred yards apart or miles apart, the only way you know where you are is to follow the compass because you can't see anything on the water, not a thing. If the lobster fishermen were considerate enough to keep the lobster pots out of the channel so you could go some place, you wouldn't need such a device at all but they are not. I heard Cape Porpoise, I am quite familiar with it, and if it is anything like it was four years ago, you couldn't row a peapod in there without hitting the lobster pots. It is absolutely, completely, totally impossible. Now nobody likes to get tangled up in these things, I know because I have been tangled up in them a number of times and it creates a hazard when you do. It is not only relative to a small boat, a big boat doesn't mind, they can churn through, but certainly a smaller boat can't because your boat stops and there you are floating around in the water hung by the tailend on a lobster pot. I can recall one day in particular when I went across Jericho Bay. This is a fire bridge cruiser and three of us were on the bridge trying to watch out for those things and we caught five going across Jericho Bay and I still have one of the buoys in the basement as a souvenir—chopped up considerably.

There is another thing that is a terrible hazard—each one of these things has a toggle on it and part way down the line there is another floating device so the line doesn't get tangled from the bottom of the ocean when the tide is out so, at low tide, the toggle is floating usually just under the water and the buoy is floating off sideways some 40 feet and, in many of these instance, the only place you have to go is between the toggle and the buoy. Of course, if the line isn't bellied down, you are going to get tangled up in the line. It would seem to me that if we are going to pass a law to prohibit this sort of thing, the logical thing to do would be prevent lobster fishing in the marked channels so you can get around without getting tangled up in them.

For instance, at a place in Machias that I can't pronounce, I saw a Coast Guard boat, one of these smaller ones, take off going to beat the devil someplace, I don't know if it was a pleasure ride or not, but suddenly it looked like he was on the end of an elastic band, he just brought up quickly and went backwards because he was tangled up in a lobster pot and what if it had been an emergency, he wouldn't have gotten there, that is for sure. He would have had to radio for another boat to come along.

I think there is some fault on both sides. I think that anything can be abused and I am thoroughly convinced that they should be allowed on boats for some safety for the pleasure craft and other lobster boats, I suppose, that might care to use them but the idea of this amendment that you can use a cutting edge provided you fix it so it can't cut makes no sense at all.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: It is quite obvious the reason that this is in here is so people will not put the cutting unit on their prop; if you have a cage, you do not need it. Then you hear the argument, it is going to slow the boat down two or three knots if you have the cage. So what?

I will tell you what the lobstermen will do—they will put a length of cable, steel cable, for the first five or ten feet on their warps and when those cutting edges hit it, it will be a little different story, you will really be wrapped up.

I think what is going to happen is that if you leave the law the way it is, your causing problems. you cannot keep people out of the channels with their lobster pots. This is where the lobster are so they are going to put them where the lobsters are, that is their business. You can go day after day without ever hitting a lobster pot, buoy, but if you hit one, you at least ought to be enough of a gentleman to reach down and pull the line up, one person will hold the line while you untangle the rest of it or cut it free and tie it together so at least the fisherman does not lose his \$50.00 or \$60.00 investment.

I am going to vote for this amendment.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: There are two ways to protect a vessel from getting wound up in lobster traps, one is a passive method called a cage, which is a series of horizontal pieces of steel that are welded together and bolted onto the stern post of the vessel that come out around the propeller with the back side of it open. The other is the use of cutters. Now if you put a cage on your vessel, I have heard people say that the cutter is the only way to protect and that, occasionally, pleasure boats are in areas where there are lobster traps. In about 10 years of active lobster fishing—a lobster boat being intentionally in areas with a dense concentration of lobster traps and a cage on that boat, I got what is known as wound up three times, caught in lobster lines. Every one of those times, I got wound up in my own pot warp because I was hauling a trap on one end from the bow and feeding it off the stern and it rolled up under and when I put the boat in reverse, I sucked the warp right up into the wheel. I will admit that, generally speaking, if you put a cage on your boat, which is a passive measure in many instances is less expensive than these cutters are, and I would like to let everybody know that you can get a cage made for everything from an outboard motor to a 100 ft. dragger. They are there and they are available and they are bolt on devices. Occasionally, even with a cage on your boat, you might suck some seaweed, a floating plastic bag or a piece of pot warp into your wheel. If an individual has taken the time and the effort and the expense to attempt to cause no damage to lobster trap gear by putting a cage on and by some accident, he should happen to suck something into his wheel, he deserves the right to be protected. He should not have the added expense for mechanical repairs or loss of a day's work. He has done everything that he can passively to protect himself. This bill would allow that individual, who has taken the care and the effort to attempt to protect other people's gear, the capability from being prevented from making a living or having undue damage done to his boat by having a cutter on it. Those people, however, that are not willing to take the necessary passive measures to protect both his equipment and other peoples equipment would be prohibited from using a cutter. All the arguments and all the letters that I have

received from people, be they commercial fishermen or be they pleasure boaters in opposition to the enactment to this piece of legislation, not one of them had even mentioned the possibility of putting a cage around his propeller. If this piece of legislation is enough to make people put cages around their propeller, it is worthwhile. This compromise is a compromise, it is not totally satisfactory to anyone, it is one that is acceptable to me, it is one acceptable to both the fishermen and the commercial boaters in my area. In my talking with some people out of state who have expressed great interest in this particular bill, it is acceptable to them also because they are aware of the problems.

I would hope that you would oppose the current motion, support the Representative from Harpswell and the decision of the Conference Committee and I would request a Division.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I hate to belabor this. I called the Coast Guard station in Rockland and asked them if they knew anything about these spurs and if they were causing a great deal of trouble. The officers there had not even heard of them and what they were but they said these warp lines caused them a great deal of trouble in the colder weather. The Coast Guard has to spend \$50.00 a throw to get a diver to come out and untangle their props when they are on a mission or something and it happens frequently to them.

I think we should reject this bill.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Stockton Springs, Representative Crowley, that the House reject the Committee of Conference Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

48 having voted in the affirmative and 70 in the negative, the motion did prevail.

Thereupon, the Committee of Conference Report was accepted.

The House recessed from Passage to be Engrossed.

Committee of Conference Amendment "A" (H-130) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee of Conference Amendment "A" in non-concurrence and sent up for concurrence.

#### Papers from the Senate

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA

May 10, 1985

The Honorable Edwin H. Pert  
Clerk of the House  
112th Legislature  
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today voted to adhere to its action whereby it failed to engross Bill "An Act Prohibiting Bond Issues of Less than \$2,000,000" (H.P. 202) (L.D. 236)

Thank you.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA

May 10, 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 Education, the Governor's nomination of Joyce Roach of Merrill for reappointment to the State Board of Education.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA

May 10, 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 Education, the Governor's nomination of Frank J. Farrington of Bangor for appointment to the State Board of Education.

Mr. Farrington is replacing Marshall Cohen.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

#### Unanimous Ought Not to Pass

Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Limit the Duplication of Benefits under the Workers' Compensation Act" (S.P. 250) (L.D. 645)

Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Provide for the Taking of One Spruce Partridge in the Daily Bag Limit" (S.P. 345) (L.D. 940)

Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act Concerning Notification Under the Workers' Compensation Laws" (S.P. 328) (L.D. 817)

Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act Relating to the Admissibility of Certain Statements in Workers' Compensation Cases" (S.P. 165) (L.D. 434)

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

#### Unanimous Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Change the Exemption for Farm Family Corporations from 4 to 8 Employees under the Workers' Compensation Law" (S.P. 155) (L.D. 422)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Allowing an Exemption from the Requirements of the Workers' Compensation Act for Certain Employers Employing less than 3 Persons" (S.P. 452) (L.D. 1255)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Fund New, Expanded and Innovative Child Care Programs in this State" (S.P. 367) (L.D. 1001)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Concerning Compelling Evidence in Criminal Proceedings" (S.P. 392) (L.D. 1091)

Report of the Committee on Fisheries and Wildlife reporting "Leave to Withdraw" on Bill "An Act to Increase the Length of the Bear Hunting Season" (S.P. 341) (L.D. 927)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Restructure the Employees' Health Insurance Program and Include the Program within the Risk Management Division, Depart-

ment of Finance and Administration" (S.P. 406) (L.D. 1131)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Expedite Legislative Sessions" (Emergency) (S.P. 216) (L.D. 574)

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act Concerning School Prayer" (S.P. 246) (L.D. 641)

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

#### Orders

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

ORDERED, that Representative Edith Beaulieu of Portland be excused May 13, 14, 15, 16 and 17 for legislative business.

Was read and passed.

#### Reports of Committees

##### Unanimous Ought Not to Pass

Representative WALKER from the Committee on Fisheries and Wildlife on Bill "An Act to Establish a Coyote Snaring Season" (H.P. 330) (L.D. 446) reporting "Ought Not to Pass"

Representative GREENLAW from the Committee on Fisheries and Wildlife on Bill "An Act to Establish a Coyote Awards Program" (H.P. 657) (L.D. 929) reporting "Ought Not to Pass"

Representative BROWN from the Committee on Education on Bill "An Act to Provide for Identification and Application to Appropriate Accounts of School Reimbursement Funds" (H.P. 896) (L.D. 1291) 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 ROTONDI from the Committee on Fisheries and Wildlife on Bill "An Act to Authorize the Exhibition of Piranha Fish" (H.P. 526) (L.D. 746) reporting "Leave to Withdraw"

Representative GWADOSKY from the Committee on State Government on Bill "An Act to Provide for a Toll-free Number for Maine Citizens Needing Information" (H.P. 825) (L.D. 1166) reporting "Leave to Withdraw"

Representative MITCHELL from the Committee on Marine Resources on Bill "An Act to Allow the use of Lobster Fund Money to Provide for Lobster Hatcheries" (H.P. 489) (L.D. 692) reporting "Leave to Withdraw"

Representative REEVES from the Committee on Legal Affairs on Bill "An Act to Provide for Toxicological Tests in the Event of a Recreational Boating Fatality" (H.P. 21) (L.D. 19) reporting "Leave to Withdraw"

Representative BROWN from the Committee on Education on Bill "An Act to Create a Technological, Business and Industrial Development Council for the University of Maine" (H.P. 561) (L.D. 832) reporting "Leave to Withdraw"

Representative RICE from the Committee on Marine Resources on Bill "An Act to Regulate the Shipment of Lobsters" (H.P. 669) (L.D. 952) reporting "Leave to Withdraw"

Representative DELLERT from the Committee on Aging, Retirement and Veterans on Bill "An Act to Establish Registers for Maine Veterans Exposed to Herbicides and Nuclear Radiation" (H.P. 892) (L.D. 1287) 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 NELSON from the Committee on Human Resources on Bill "An Act Concerning Funeral and Burial Expenses of Municipal General Assistance Recipients"

(H.P. 560) (L.D. 910) reporting "Ought to Pass" in New Draft (H.P. 1042) (L.D. 1517) (Senator BUSTIN of Kennebec—of the Senate—abstained).

Report was read and accepted. The New Draft read once and assigned for second reading later in today's session.

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

Representative SWAZEY from the Committee on Taxation on Bill "An Act Permitting Municipalities to Refuse to Renew Certain Licenses when the Licensee has Failed to Pay Personal Property Tax" (H.P. 371) (L.D. 490) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Change the Law Relating to Liens for Unpaid Property Tax Assessments" (H.P. 1041) (L.D. 1516)

Report was read and accepted. The New Draft read once and assigned for second reading later in today's session.

#### **Divided Report**

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

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act to Provide Family Counseling and Legal Assistance in Cases of Alleged Child Abuse or Neglect" (H.P. 483) (L.D. 686)

Signed:

Senators:

BERUBE of Androscoggin  
GILL of Cumberland  
BUSTIN of Kennebec

Representatives:

MELENDY of Rockland  
PINES of Limestone  
NELSON of Portland  
SEAVEY of Kennebunkport  
BRODEUR of Auburn  
TAYLOR of Camden  
KIMBALL of Buxton

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

Signed:

Representatives:

MANNING of Portland  
ROLDE of York  
CARROLL of Gray

Reports were read.

Representative NELSON of Portland moved that the House accept the Majority "Ought Not to Pass" Report.

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

#### **Divided Report**

Majority Report of the Committee on Local and County Government on Bill "An Act to Increase the Competitive Bidding Minimum for County Commissioner Purchases" (H.P. 193) (L.D. 227) reporting "Ought to Pass" in New Draft (H.P. 1038) (L.D. 1512)

Signed:

Senators:

TUTTLE of York  
STOVER of Sagadahoc  
BALDACCI of Penobscot

Representatives:

SALSBURY of Bar Harbor  
SMITH of Island Falls  
NICKERSON of Turner  
ROTONDI of Athens  
WENTWORTH of Wells  
MASTERMAN of Milo  
DAGGETT of Manchester  
MURPHY of Berwick  
HALE of Sanford

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

Signed:

Representative:

McHENRY of Madawaska

Reports were read.

On motion of Representative Daggett of Manchester, the Majority "Ought to Pass" Report

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

#### **Consent Calendar**

##### **First Day**

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

(H.P. 646) (L.D. 916) Bill "An Act to Regulate Fishing Derbies" Committee on Fisheries and Wildlife reporting "Ought to Pass"

(H.P. 834) (L.D. 1178) Bill "An Act to Establish a Vehicle Rental Agency in the Department of Conservation" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-129)

(H.P. 734) (L.D. 1043) Bill "An Act Concerning the Taking of Smelts" Committee on Marine Resources reporting "Ought to Pass"

(H.P. 686) (L.D. 972) Bill "An Act to Clarify the Laws of the Department of Marine Resources" Committee on Marine Resources reporting "Ought to Pass"

(S.P. 126) (L.D. 366) Bill "An Act to Amend the Law Relating to Regulation of Business Practices Between Motor Vehicle Manufacturers, Distributors and Dealers" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (S-80)

(S.P. 142) (L.D. 409) Bill "An Act to Appropriate Grant Funds to the Maine State Commission on the Arts and the Humanities to Support Current Established Programs" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-78)

(H.P. 508) (L.D. 713) Bill "An Act to Amend the School Construction Law" (Emergency) Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-128)

There being no objections, the above items were ordered to appear on the Consent Calendar of later in today's session under the listing of Second Day.

#### **Consent Calendar**

##### **Second Day**

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

(H.P. 932) (L.D. 1338) RESOLVE, Relating to Improved Delivery of Services to Juvenile Justice Clients (Emergency)

(H.P. 933) (L.D. 1339) RESOLVE, Relating to the Development of a Plan for the Provision of Court-ordered Evaluations for Juveniles (Emergency)

(H.P. 934) (L.D. 1340) RESOLVE, Relating to the Development of an Interdepartmental Medicaid Review Committee (Emergency)

(H.P. 935) (L.D. 1341) RESOLVE, Extending the Life of the Commission to Examine the Availability, Quality and Delivery of Services Provided to Children with Special Needs (Emergency)

(H.P. 799) (L.D. 1129) RESOLVE, Authorizing the Exchange by the Department of Defense and Veterans' Services of a Certain Parcel of Land in Belfast Fronting on Congress Street and Being Part of the Belfast Armory Lot for Another Parcel of Land to the Rear of Land Adjacent to the Armory with the City of Belfast (Emergency) (C. "A" H-126)

(S.P. 303) (L.D. 792) Bill "An Act to Provide that an Unpermitted Leave from a Court Appearance shall be Classified as an Escape" (C. "A" S-77)

(H.P. 585) (L.D. 855) Bill "An Act Amending the Maine Juvenile Code to Provide for Diagnostic Evaluation for Bind-over purposes"

(H.P. 587) (L.D. 857) Bill "An Act to Amend the Definition of Juvenile Crime in the Maine Juvenile Code"

(H.P. 242) (L.D. 283) Bill "An Act to Amend the Laws Relating to Private Investigators" (C.

"A" H-127)

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

#### **Passed to Be Engrossed**

Bill "An Act to Establish a Funding Mechanism to Make the Joint Environmental Training Program Self-supporting" (S.P. 552) (L.D. 1470)

Bill "An Act Relating to Fishing by Net, Trap or Weir in the Waters of Union River Bay and the Lower Union River in Hancock County" (Emergency) (S.P. 551) (L.D. 1469)

Bill "An Act to Establish Temporary Handicapped Parking Permits" (H.P. 1035) (L.D. 1509)

Bill "An Act to Grant Authority to the Maine State Ferry Advisory Board to Name Ferries" (H.P. 1034) (L.D. 1508)

Bill "An Act Authorizing State Employees to Purchase State Property Upon Retirement or Leaving Office" (H.P. 1036) (L.D. 1510)

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

#### **Later Today Assigned**

RESOLVE, Relating to the Development of an Interagency Plan to Address the Identified Gaps in Mental Health Services for Children and Families (Emergency) (H.P. 931) (L.D. 1337)

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

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

Bill "An Act to Provide Guidance to Municipal Officers in Granting and Denying Liquor Licenses for On-premise Consumption" (H.P. 1039) (L.D. 1513)

Bill "An Act Concerning Installation of Service by Utilities" (H.P. 1040) (L.D. 1514)

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

#### **Passed to Be Enacted**

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

An Act to Mandate Smoke Alarms in all New, Converted or Restored Single-family Dwellings (H.P. 512) (L.D. 717) (C. "A" H-103)

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

On motion of Representative Stetson of Damariscotta, tabled pending passage to be enacted and later today assigned.

An Act to Amend the Law Relating to the Installation of Smoke, Heat or Fire Detection Systems in Certain Hotels (H.P. 1013) (L.D. 1461)

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.

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

#### **Passed to Be Enacted Emergency Measure**

An Act to Amend the Charter of the Bustin's Island Village Corporation (H.P. 38) (L.D. 40) (C. "A" H-115)

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. 123 voted in favor of the same and none against and according-

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

#### Emergency Measure

RESOLVE, Pertaining to a State Employee Health Promotion (H.P. 990) (L.D. 1428) (S. "A" S-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. 116 voted in favor of the same and none against and accordingly, the Bill was finally passed, signed by the Speaker and sent to the Senate.

An Act to Clarify Certain Aspects of Mineral Exploration, Development and Disclosure (S.P. 549) (L.D. 1466)

An Act Relating to Membership on the Board of Trustees of the Criminal Justice Academy (H.P. 1016) (L.D. 1465) (H. "A" H-119)

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

#### Reports of Committees

##### Unanimous Leave to Withdraw

Representative PAUL from the Committee on Legal Affairs on Bill "An Act to Limit the Transportation of Fire Arms in Motor Vehicles" (H.P. 460) (L.D. 661) reporting "Leave to Withdraw"

Representative BRANNIGAN from the Committee on Business and Commerce on Bill "An Act to Make Maine's Implied Warranty Law Applicable to the Sale of Used Motor Vehicles by Dealers" (H.P. 977) (L.D. 1409) 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 BRANNIGAN from the Committee on Business and Commerce on Bill "An Act Concerning the Composition of the Board of Elevator and Tramway Safety" (H.P. 531) (L.D. 751) reporting "Ought to Pass" in New Draft (H.P. 1043) (L.D. 1518)

Report was read and accepted. The New Draft read once and assigned for second reading later in today's session.

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

Representative BRANNIGAN from the Committee on Business and Commerce on Bill "An Act to Exempt Houses of Worship from Inspection Fees for Elevators" (H.P. 595) (L.D. 865) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Annual Inspection Fees for Inclined Lifts and Vertical Lifts" (H.P. 1044) (L.D. 1519)

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

#### Orders of the Day

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

COMMITTEE OF CONFERENCE REPORT—on RESOLVE, to Name the Wiscasset Bridge the Donald E. Davey Bridge (H.P. 373) (L.D. 492)

TABLED—May 9, 1985 by Representative BRANNIGAN of Portland.

PENDING—Acceptance of Committee Report. (Roll Call Requested)

On motion of Representative Melendy of Rockland, retabled pending acceptance of the Committee Report and specially assigned for Friday, May 17, 1985.

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

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)

TABLED—May 9, 1985 by Representative HICKEY of Augusta.

PENDING—Passage to be Enacted.

On motion of Representative Hickey of Augusta, retabled pending passage to be enacted and later today assigned.

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

An Act to Clarify the Definition of Spouses (H.P. 426) (L.D. 606) (C. "A" H-102)

TABLED—May 9, 1985 by Representative HICKEY of Augusta.

PENDING—Passage to be Enacted.

On motion of Representative Hickey of Augusta, retabled pending passage to be enacted and later today assigned.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Extend the Tenure for Sheriffs from 2 Years to 4 Years (S.P. 348) (L.D. 943)

TABLED—May 10, 1985 by Representative NADEAU of Saco.

PENDING—Final Passage.

THE SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that has been sailing through the process the past three or four days and before we vote on this for enactment, I have got some concerns with this bill that I would like to express to each of you.

This is a bill that has been before the Legislature several times but I think it may be appropriate to examine just for a moment the historical background of the powers and duties of the sheriffs to find out how they got where they are today.

In theory, law enforcement on the county level has derived from the traditional common law duty of the sheriff as a conservator of the peace and protector of the society against the commission of vice and crime. This was the case of Sawyer versus County Commissioners back in 1917. So, theoretically, the sheriffs duty to preserve the public peace extends throughout the county. However, realistically, with the advent of local police departments and state police departments, clearly the sheriffs departments are involved in to the greatest extent are in those rural areas of each particular county. Clearly the most important duty of sheriffs now would be the maintaining of a jail or detention facility and that function of patrolling. However, even though a large portion of the sheriff's budget is committed to patrolling, the sheriffs patrol is not all that great a presence in comparison with the patrolling functions of the municipal and state police. But there are those rural areas, obviously, that have begun to consider operating central communications for county, municipal police and fire departments. However, in comparing these services provided by local and state police departments, it becomes clear that county law enforcement throughout the state has been experiencing a declining presence.

Present powers and duties of sheriffs in each of Maine's counties now are defined by common law and only in a few particular instances by state statute. Though the courts have not established in detail the nature and extent of the sheriffs powers and duties they have recognized, once again, that the sheriff's essential duties and powers are, with reference to the same court case, as a conservator of the peace and protector of society against the com-

mission of vice and crime. So under this, the generally accepted common law, the basic duties of the sheriff can be seen as three parts, first of all, a conservator of peace; secondly, as a jailor ex officio, and thirdly, as an officer of the court.

Now I know this has been somewhat of a dry background and description of the sheriff powers and I apologize but I think it is important because it leads up to the problem that I have with this bill. It is important to note that the common law duties and powers of the sheriff exist in the absence of statutory provisions defining the sheriffs powers and duties.

Normally, the common law definition of a sheriff's scope of authority can be altered or removed simply by enacting legislation to cover the same area. In Maine however, this is very difficult because of the fact that the sheriff is a constitutional officer and being a constitutional officer limits the power of this legislature to alter or change the powers of the sheriff.

Presently in the State of Maine, sheriffs are elected for a two year term. There is a reason for a two year term and that reason is as follows: the position of sheriff is very influential and can be, as in many other occupations, abused. Now the purpose for increasing sheriff terms to four years, according to the Statement of Fact in this bill, is to enable the sheriffs office to run more efficiently. This presupposes that the two year term in itself creates an inefficiency that can't be overcome by any other means than by having a four year term. I did a little poll last Friday and again this morning and I talked with several legislators to get an idea of how long their sheriffs have been in their perspective counties. I think if you take the time to do this you will find it to be an interesting phenomenon, that being the sheriffs across the state seem to be able to get reelected without any great deal of difficulty. And if you are looking for a reason why the sheriffs seem to get reelected without a great deal of difficulty, you may just want to look closely at the structure of the sheriff departments. I am not suggesting that the sheriff departments make great political machines or even used for that purpose. And I am not suggesting that they are not used for that purpose. I am merely presenting these facts for you as individuals to analyze.

I suspect this bill has some support. I know my sheriff in Somerset County supports the bill just as every sheriff in every county in the State of Maine supports the bill, but despite who supports the bill and despite the pressures that may be put on many of us to vote for a piece of legislation like this, there comes a time when you are serving a legislature, when despite the pressures that are put on you and despite who supports the bill, that you simply cannot, in good conscience, vote for a bill. I think that is where I am this morning. It is because of the historical background or the traditional powers of the sheriff, it is because of the fact that the sheriff is a constitutional officer which limits us as a legislature without any control over the powers and duties of the sheriffs that I, as one legislator, plan to vote against this bill on enactment.

THE SPEAKER: The Chair recognizes the Representative from Augusta, Representative Sproul.

Representative SPROUL: Mr. Speaker, Men and Women of the House: Could we have the Clerk read the Committee Report please?

Whereupon, the Committee Report was read by the Clerk.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to support this resolution and request that the members of this body support this resolution. I don't disagree with what the good Representative has stated in his remarks discussing the history of law enforcement.

particularly county law enforcement, in this state. I do think that one has to look at the changes that have come about in the last 20 or 25 years in this state particularly with the growth in population, growth in crime rates and things of that nature.

In co-sponsoring this legislation, I looked at it as an opportunity to take the so-called politics out of the sheriffs department and make it a true and full-fledged law enforcement department. I think that the Representative has made a good point in regard to that. I think one must realize too that, just like sheriffs, we are up for reelection every two years and the greater portion of our time, when we are not here legislating, is out campaigning.

As I spoke earlier about the changes that have developed over the years the problems that have arisen, I think we have got to have full-time sheriffs, sheriffs who can devote 24 hours a day to their occupation and not be concerned about running for reelection every two years. I feel also that if there was any big concern, if there wasn't a need for this intermediate layer of law enforcement at county government, that there would have been proposals before us abolishing that department. I have not seen one yet. I have seen bills which abolish county government but none specifying the sheriffs department.

So I would hope this morning that we should all see fit to vote to pass this resolution and let the people, the people in those 16 counties in the State of Maine, make the decision as to whether they want a two year sheriff or a sheriff who is going to be a law enforcement officer for four years.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker and Members of the House: I agree with the last Representative in that much time is spent working for reelection. I also agree that most of them are reelected many times, but that still takes much money and battling your opponent all the time. Sheriffs and staff in the present age are most important especially in the rural areas, they do operate county communications in many areas and they do provide detective officers for investigation in the counties. For instance in York County, thousands of visitors greatly increase their need for patrols and additional police at that time. I hope you will vote for this bill.

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

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

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: Before you vote on this bill, I think that you should pay close attention to what the Representative from Fairfield, Representative Gwadosky, presented to this body. I tend to agree with him and, based on some of the discussions that were held this year, I have not agreed with the gentleman from Fairfield on too many occasions, but in this particular respect, I believe he was right and I certainly will vote along with his recommendation. I think that when you say that by changing the sheriffs term of office from two to four years, you are going to be taking politics out of that particular office. I don't believe that that makes any difference, two or four years. One of the most well organized political office I know of is in the sheriffs department. That is one area that is pretty well organized and whether they run a political of-

fice two or four years, they are going to get involved in the political process. So I don't think it will make any changes. I would urge you to go along with the recommendation of the gentleman from Fairfield.

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

#### ROLL CALL No. 63

YEAS:—Allen, Armstrong, Baker, A.L.; Begley, Bonney, Boutilier, Brown, D.N.; Callahan, Carroll, Cashman, Chonko, Connors, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Farnum, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Hickey, Higgins, H.C.; Hillock, Ingraham, Jackson, Jacques, Jalbert, Kimball, Lacroix, Lander, Law, Lawrence, Lebowitz, Lord, MacBride, Martin, H.C.; Masterman, Matthews, McGowan, McSweeney, Melendy, Michaud, Mills, Murphy, E.M.; Murphy, T.W.; Nadeau, G.G.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Perry, Pines, Randall, Rice, Ridley, Rioux, Roberts, Rolde, Rotondi, Salisbury, Scarpino, Seavey, Sherburne, Simpson, Smith, C.B.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Tammara, Taylor, Vose, Walker, Warren, Webster, Wentworth, Whitcomb.

NAYS:—Baker, H.R.; Bell, Bost, Bott, Bragg, Brannigan, Brodeur, Brown, A.K.; Cahill, Carter, Clark, Coles, Connolly, Duffy, Gwadosky, Hale, Handy, Hayden, Holloway, Joseph, Kane, Lisnik, Macomber, McHenry, McPherson, Mitchell, Moholland, Murray, Nadeau, G.R.; Paradis, P.E.; Parent, Paul, Pouliot, Priest, Racine, Richard, Rydell, Small, Smith, C.W.; Strout, Tardy, Telow, Theriault, Weymouth, Willey, The Speaker.

ABSENT:—Aliberti, Beaulieu, Carrier, Dellert, Higgins, L.M.; Hoglund, Manning, Mayo, McCollister, Michael, Reeves, Ruhlin, Swazey, Zirnkilton.

91 having voted in the affirmative and 46 in the negative with 14 being absent, the motion did not prevail.

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

HOUSE DIVIDED REPORT—Majority (7) "Ought Not to Pass"—Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-106)—Committee on State Government on Bill "An Act to Establish the Department of Forestry" (H.P. 338) (L.D. 441)

TABLED—May 10, 1985 by Representative NADEAU of Saco.

PENDING—Motion of Representative GWADOSKY of Fairfield to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Dexter of Kingfield, retabled pending the motion of Representative Gwadosky of Fairfield to accept the Majority "Ought Not to Pass" Report and later today assigned.

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

Bill "An Act Relating to Structures Located in Proposed Ways" (S.P. 265) (L.D. 708) (C. "A" S-74)

TABLED—May 10, 1985 by Representative CARTER of Winslow.

PENDING—Passage to be Engrossed.

On motion of Representative Kane of South Portland, retabled pending passage to be engrossed and specially assigned for Friday, May 17, 1985.

#### Bill Held

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

Representative JALBERT: Is the House in possession of Bill "An Act to Require Eye Protection for Persons Riding Motorcycles" (H.P. 465) (L.D. 666) (C. "A" H-111)?

The SPEAKER: The Chair would answer in

the affirmative having been held at the request of the Representative.

Representative Jalbert of Lisbon moved the House reconsider its action whereby the Bill was passed to be enacted.

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

Representative CLARK: Mr. Speaker, ladies and Gentlemen of the House: Friday we had a little bit of time to debate this bill. I took the amendment along with the bill home over the weekend. If you take the time to look at the amendment and compare it with the bill—at this time, I would like to pose a question through the Chair.

I would like to ask the chairman of the committee, after taking a look at the amendment, what does the amendment actually do with the bill and how would they enforce it and what does the bill really do?

The SPEAKER: The Representative from Millinocket, Representative Clark, poses a question through the Chair to any member who cares to answer.

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

Representative THERIAULT: Mr. Speaker and Members of the House: The bill, in its original form, required that the eye wear that you were to wear had to meet certain specifications as determined by the Commissioner of Public Safety. What the committee did and what the amendment does is it removes that requirement. In other words, you can wear any eye protection that you so desire without having to meet any standards. What the bill does, it will require all individuals who ride motorcycles to wear eye protection. That is what the bill does. I don't have much more to say on it unless you ask specific questions.

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

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, took this home and looked it over and talked to some of the folks back home. It makes no mention if you have a windshield on your motorcycle, I have motorcycle and I have a windshield on it. Sidecars or any dirt bike, with the amendment, it pretty well guts the bill out.

I would like to move that this bill and all its accompanying papers be indefinitely postponed and ask for a roll call.

The SPEAKER: The Chair would advise the gentleman that the motion to indefinitely postpone is not in order at this time.

The pending question is to reconsider passage to be enacted.

Representative RIDLEY: I hope that you do reconsider this.

Representative Clark of Millinocket requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Cahill.

Representative CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would request the Clerk read the Committee Report please.

Whereupon, the Committee Report was read by the Clerk.

The SPEAKER: The pending question before the House is on the motion of Representative Jalbert of Lisbon that the House reconsider its action whereby the Bill was passed to be enacted. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 64

YEAS:—Allen, Armstrong, Baker, A.L.;



Baker, H.R.; Begley, Bell, Bost, Bott, Boutilier, Bragg, Brown, D.N.; Carter, Chonko, Clark, Connors, Cote, Crowley, Daggett, Descoteaux, Dexter, Diamond, Duffy, Erwin, Farnum, Foster, Gwadosky, Hale, Harper, Hepburn, Hichborn, Jackson, Jalbert, Joseph, Lander, Law, Lord, Masterman, McHenry, McSweeney, Michaud, Murphy, E.M.; Nickerson, Paul, Racine, Ridley, Rotondi, Seavey, Simpson, Small, Smith, C.W.; Stevens, A.G.; Tardy, Vose, Warren, Willey.

NAYS:—Bonney, Brannigan, Brodeur, Brown, A.K.; Cahill, Callahan, Carroll, Cashman, Coles, Connolly, Cooper, Crouse, Davis, Dillenback, Drinkwater, Foss, Greenlaw, Handy, Hayden, Hickey, Higgins, H.C.; Hillock, Holloway, Ingraham, Jacques, Kane, Kimball, Lacroix, Lawrence, Lebowitz, Lisnik, MacBride, Macomber, Martin, H.C.; Matthews, McPherson, Melendy, Mills, Mitchell, Moholland, Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pines, Pouliot, Priest, Randall, Rice, Richard, Rioux, Roberts, Rolde, Rydell, Salsbury, Scarpino, Sherburne, Smith, C.B.; Soucy, Sproul, Stetson, Stevens, P.; Stevenson, Strout, Tamaro, Taylor, Telow, Theriault, Walker, Webster, Wentworth, Weymouth, Whitcomb.

ABSENT:—Aliberti, Beaulieu, Carrier, Dellert, Higgins, L.M.; Hoglund, Manning, Mayo, McCollister, McGowan, Michael, Reeves, Ruhlin, Swazey, Zirnklinton, The Speaker.

55 having voted in the affirmative and 80 in the negative with 16 being absent, the motion did not prevail.

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

(Off Record Remarks)

On motion of Representative Telow of Lewiston,

Recessed until 5:00 o'clock in the afternoon.

(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:

#### Papers from the Senate

##### Unanimous Ought Not To Pass

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act Concerning the Price which State Agency Retail Stores may charge for Liquor" (S.P. 305) (L.D. 794)

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Establish an Increase in the Allowable Profit Margin for State Agency Liquor Stores" (S.P. 306) (L.D. 795)

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

##### Unanimous Leave to Withdraw

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Provide Assistance to Needy Families Facing Foreclosure" (S.P. 299) (L.D. 788)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Recognize Transportation as a Basic Necessity in the Department of Human Services" (S.P. 300) (L.D. 789)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act Relating to the Availability of Psychological and Psychiatric Services" (S.P. 523) (L.D. 1407)

Report of the Committee on Business and

Commerce reporting "Leave to Withdraw" on Bill "An Act Concerning Retail Pricing Methods" (S.P. 514) (L.D. 1388)

Were 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 Business and Commerce on Bill "An Act Relating to Prearranged Funerals or Burial Plans" (S.P. 224) (L.D. 587) reporting "Ought to Pass" in New Draft (S.P. 571) L.D. 1498)

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 Friday, May 17, 1985.

##### Ought to Pass in New Draft

Report of the Committee on Utilities on Bill "An Act to Simplify and Clarify the Public Utilities Commission's Authority Over Utility Issuance of Stocks, Bonds and Notes" (S.P. 119) (L.D. 334) reporting "Ought to Pass" in New Draft (S.P. 574) (L.D. 1499)

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 Friday, May 17, 1985.

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

Report of the Committee on Energy and Natural Resources on RESOLVE, to Establish and Advisory Commission on Public Lands Policy and Management (Emergency) (S.P. 238) (L.D. 632) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Regarding the Bureau of Public Lands" (S.P. 575) (L.D. 1515)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-87).

Report was read.

The SPEAKER: This matter is improperly before the body and will be returned to the Committee on Energy and Natural Resources.

##### Divided Report

###### Tabled and Assigned

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Require the Use of Seat Belts in all Motor Vehicles" (S.P. 383) (L.D. 1050)

Signed:

Sensors:

ERWIN of Oxford  
SHUTE of Waldo

Representatives:

THERIAULT of Fort Kent  
SOUCEY of Kittery  
CALLAHAN of Mechanic Falls  
MILLS of Bethel  
STROUT of Corinth  
CAHILL of Woolwich  
POULIOT of Lewiston  
McPHERSON of Eliot  
MACOMBER of South Portland  
MOHOLLAND of Princeton

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

Signed:

Sensor:

DANTON of York

Came from the Senate with the Minority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "B" (S-75)

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 to accept the

Majority "Ought Not to Pass" Report and specially assigned for Friday, May 17, 1985.

##### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-81) on Bill "An Act to Increase the Number of Superior Court Justices and District Court Judges" (S.P. 197) (L.D. 523)

Signed:

Sensors:

CARPENTER of Aroostook  
CHALMERS of Knox  
SEWALL of Lincoln

Representatives:

KANE of South Portland  
MacBRIDE of Presque Isle  
COOPER of Windham  
PARADIS of Augusta  
DRINKWATER of Belfast  
ALLEN of Washington  
PRIEST of Brunswick  
LEBOWITZ of Bangor

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

Signed:

Representatives:

CARRIER of Westbrook  
STETSON of Damariscotta

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-81)

Reports were read.

On motion of Representative Paradis of Augusta, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once.

Committee Amendment "A" (S-81) was read by the Clerk and adopted and the Bill assigned for second reading Friday, May 17, 1985.

##### Divided Report

###### Tabled and Assigned

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-83) on Bill "An Act to Amend the Statutes on Sex Offenses" (S.P. 283) L.D. 772)

Signed:

Sensors:

CARPENTER of Aroostook  
CHALMERS of Knox  
SEWALL of Lincoln

Representatives:

ALLEN of Washington  
DRINKWATER of Belfast  
COOPER of Windham  
PRIEST of Brunswick  
LEBOWITZ of Bangor  
STETSON of Damariscotta  
MacBRIDE of Presque Isle  
KANE of South Portland  
PARADIS of Augusta

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

Signed:

Representative:

CARRIER of Westbrook

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-83)

Reports were read.

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

On further motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" Report and assigned for Friday, May 17, 1985.

##### Non-Concurrent Matter

Bill "An Act to Provide for the Education of Students Residing in Long-term Drug Treat-



ment Centers" (H.P. 719) (L.D. 1029) on which the Unanimous "Refer to the Joint Select Committee on Alcoholism Services" Report of the Committee on Education was read and accepted and the Bill referred to the Joint Select Committee on Alcoholism Services in the House on May 9, 1985.

Came from the Senate with the Bill substituted for the Report and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-86) in non-concurrence.

The House voted to recede and concur.

#### Messages and Documents

The following Communication: (S.P. 576)  
112th Maine Legislature

May 10, 1985

Senator Judy C. Kany  
Representative Dan A. Gwadosky  
Chairpersons  
Committee on State Government  
112th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Harold L. Gosselin of Lewiston for reappointment to the State Personnel Board.

Pursuant to Title 5 MRSA Section 591, this nomination will require review by the Joint Standing Committee on State Government 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 State Government.

Was Read and Referred to the Committee on State Government in concurrence.

The following Communication: (S.P. 577)  
112th Maine Legislature

May 10, 1985

Senator Judy C. Kany  
Representative Dan A. Gwadosky  
Chairpersons  
Committee on State Government  
112th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Tobie Nathanson of Saco for reappointment to the State Personnel Board.

Pursuant to Title 5 MRSA Section 591, this nomination will require review by the Joint Standing Committee on State Government 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 State Government.

Was Read and Referred to the Committee on State Government in concurrence.

#### Petitions, Bills and Resolves Requiring Reference

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

##### Human Resources

Bill "An Act to Create the Bureau of Children with Special Needs in the Department of Mental Health and Mental Retardation" (H.P. 1045) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Representative NELSON of Portland, Senators GILL of Cumberland and DIAMOND of Cumberland)  
(Ordered Printed)

Sent up for concurrence.

At this point, the rules suspended for the

purpose of removing jackets for the remainder of today's session.

#### Reports of Committees Divided Report

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Mandate a Moment of Silence in Public Schools" (H.P. 724) (L.D. 1033)

Signed:

Senators:

BROWN of Washington  
GAUVREAU of Androscoggin

Representatives:

FOSS of Yarmouth  
HANDY of Lewiston  
LAWRENCE of Parsonsfield  
CROUSE of Caribou  
BROWN of Gorham  
ROBERTS of Farmington  
SMALL of Bath  
BOST of Orono  
O'GARA of Westbrook  
MATTHEWS of Caribou

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

Signed:

Senator:

HICHENS of York

Reports were read.

Representative Brown of Gorham moved the acceptance of the Majority "Ought to Pass" Report.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against the pending motion so we can accept the Minority Report.

In reference to L.D. 1033, "A Moment of Silence" I would like to read to you the First Amendment to the Constitution of the United States of America: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech." I would like to focus upon three key words in the First Amendment, establishment and free exercise thereof. First of all, let me ask you, how can silence possible be thought to serve as a means to form a religion. Secondly, if free exercise thereof is indeed given to us a freedom, doesn't a person have the right to freely exercise a time of silence, to reflect inwardly as he chooses to, just as the others have the right not to participate. A moment of silence would provide the opportunity for inward reflection but not omit those who did not want to participate.

I would like to ask those of you here today, before reacting any foregone conclusions toward the title of this bill, "A Moment of Silence" to read the bill carefully. What I and others are attempting to do is to allow a student the right to observe a moment of silence, if he chooses to, at the start of each school day. We are talking about participating voluntarily in a moment of silence and, in no way, being influenced by a person of authority within the school system in regards to how the moment should be used.

We are not asking that any student make any physical gestures if he chooses to use this moment of silence but instead to reflect inwardly.

I would like to emphatically clarify that this bill is not meant to involve government and religion nor is it to place a government sponsored prayer into the school systems. I would personally fight any attempt to do either, now or in the future.

Speaking from a viewpoint as a Representative, I would like to ask each of you to focus upon the fact that the House opens each session with a spoken prayer.

I have in my pocket some coins, a quarter, a dime and a nickel. Each coin says: "In God We Trust." Our Declaration of Independence refers to the Almighty; our pledge of allegiance

says, "under God;" monuments like the Jefferson Memorial and the Lincoln Memorial reference God, and the Supreme Court opens its session with "God Save the United States in this Honorable Court." The above all specifically mention a supreme being; a moment of silence would mention nothing. Indeed, the whole phrase, silence is golden, seems to be fitting, for how can a lack of communication infringe upon the rights of another? As a Representative, if I individually polled each member of this House, I believe that many of them would prefer a moment of silence at the opening of each session rather than a spoken prayer. The moment of silence could be used to pray, daydream, meditate, regroup or rest. No one would ever know what the other chose to do. It is a matter of choice. Time itself infringes upon no one's rights but we all have the same amount of it and individual actions can create an infringement upon another's rights but a moment of silence is a moment in time that requires no action.

I recognize that this is an emotional issue, one in which both proponents and opponents have interesting viewpoints. However, silence in the classroom would create a balanced between the pro and con. The moment of silence could respect religious tolerance and respect the rights of those who wish not to participate in a moment that was available for inward reflection.

Opponents of this bill may feel that a request for a moment of silence is just a ploy to get prayer into the school system. That makes me think of the time when the Speaker of this House asked for a moment of silence in respect of a deceased brother or colleague. Does the observance of that moment of silence necessarily mean that the members of this House pray during that moment of silence? If we have been given the freedom of speech in the First Amendment of the Constitution of the United States of America, how can a lack of speech be more threatening than speech itself? Only when we take away another constitutional right are we causing an infringement; taking away is the key. I ask you, will a moment of silence take away anyone's constitutional rights?

Many of you have wondered about the pause I observed at the beginning of this speech—let me ask you, did that pause tamper with your God, your thoughts, your beliefs, your constitutional rights? None of you know how I spent that moment. Did I pray, did I think about this speech, did I just daydream? No one will ever know.

If there has been no objection to 151 members of the Maine House of Representatives opening each session with a vocal prayer, I cannot understand where the objection to a moment of silence for the children of our communities will come from. Your decision concerning the outcome of this issue will decide whether our children can choose to experience a moment of silence privately within the midst of their peers.

Mr. Speaker, I would ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: If enacted, this bill would require all Maine schools to hold a moment of silence at the start of the school day. My objections to this bill are not based on the pros and cons of a moment of silence but rather where the decision making takes place. Already on the statutes, it is permissible language which says: "schools may have a moment of silence." Any school in your district may have a moment of silence, if approved locally. If there is a pressing concern for this, proponents would simply go to their school board and request the moment of silence. There may be towns where 70 percent of the parents would like their children to have a mo-

ment of silence and there may be other towns where perhaps the family believes the children should pray at home, who would not want the moment of silence.

I should add that, at the hearing, there was no great human cry for the bill. I know that it is easier to ask your legislator to sponsor a bill to make the locals do something than it is to organize proponents to pass something at the local level but I don't think it is fair to make all school districts to conform to a state mandate that only some districts want.

I hope you will support the 12 to 1 "Ought Not to Pass" Report.

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 member present and voting. Those in favor will vote yes; those opposed will vote no.

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

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

Representative HANDY: Mr. Speaker, Members of the House: My colleague on the Education Committee, Representative Small, related to you what is currently in statute, giving local school boards the authority to mandate in their own locality a school prayer. The other side of this issue is the fact that the statute to which she cited could conceivably be thrown out because there is a pending Supreme Court decision in an Alabama case. With those two items coupled together, I think we would show good cause to put aside this bill and to allow the local communities to take up this issue where there is such a need.

I come from a community where there is a strong Catholic population, an overwhelming majority of people are Catholic and there has been no cry in my locality for a mandated school prayer. If there is such, there is already a mechanism in place where this can happen so I urge you to support the motion of the "Ought Not to Pass" Report.

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

Representative BRAGG: Mr. Speaker, Ladies and Gentlemen of the House: I didn't plan to speak on this but I have heard that many times before and then people speak for half an hour so I will try not to do that.

First, I would like to apologize for standing in front of the House with my suspenders on because that has been pointed out to me several times today but that might be better than without them so you will just have to accept me as I am.

The point that I need to make here is that I probably have had an experience that maybe is unique—I don't know if any of the rest of you could have had that and I just feel, as I said, I should tell you. I had an experience a little over a year ago to be at a meeting in Dallas, Texas where a gentleman, who was the son of Madeline Muriel Hare, was the speaker. There is nothing in this bill that says anything about prayer or anything else but has been alluded to in the debate so I suppose that has got to be addressed. Madeline Muriel Hare was the one who went on a campaign to get legislation at the federal level to outlaw prayer in the schools and it was very interesting what we heard there that evening. The whole discussion of what he gave, the background of his family, it was something you would just have to be there to experience, but the only thing that I can say is, that I appreciate where each person is coming from if they believe this is local control. In talking out in the halls today, I have to agree that if this fails, then I think every individual who has a concern in this area should certainly pursue it at the local area and

do the best we can. I just have to tell you that being there and hearing that man talk, the story he told about his mother, the background of what brought this all about, I just have to support this bill.

The SPEAKER: The pending question before the House is the motion of the Representative from Gorham, Representative Brown, 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. 65

YEAS:—Allen, Armstrong, Baker, A.L.; Baker, H.R.; Begley, Bell, Bott, Brannigan, Brodeur, Brown, A.K.; Cahill, Callahan, Carroll, Cashman, Chonko, Coles, Connors, Connolly, Cooper, Cote, Crouse, Crowley, Davis, Descoteaux, Diamond, Foss, Foster, Greenlaw, Gwadosky, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Holloway, Ingraham, Jacques, Kimball, Lacroix, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Matthews, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Paul, Perry, Pines, Priest, Reeves, Rice, Ridley, Roberts, Rolde, Rotondi, Rydell, Salisbury, Simpson, Small, Soucy, Stetson, Stevens, A.G.; Stevens, P., Strout, Taylor, Theriault, Walker, Warren, Webster, Whitcomb, Willey.

NAYS:—Boutillier, Bragg, Brown, D.N.; Carter, Clark, Dexter, Drinkwater, Duffy, Erwin, Farnum, Hale, Hillock, Jackson, Jalbert, Lander, Martin, H.C.; Masterman, McCollister, Michael, Moholland, Murphy, E.M.; Paradis, P.E.; Parent, Pouliot, Racine, Randall, Richard, Rioux, Scarpino, Seavey, Sherburne, Smith C.B.; Smith C.W.; Stevenson, Tammaro, Tardy, Telow, Vose, Wentworth, Weymouth.

ABSENT:—Aliberti, Beaulieu, Bonney, Bost, Carrier, Daggett, Dellert, Dillenback, Higgins, H.C.; Hoglund, Joseph, Kane, Mayo, Ruhlin, Sproul, Swazey, Zirkililton, The Speaker.

93 having voted in the affirmative and 40 in the negative with 18 being absent, the motion did prevail.

#### Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Control the Growth of State Expenditures" (H.P. 386) (L.D. 530)

Signed:

Senators:

PEARSON of Penobscot  
DOW of Kennebec

Representatives:

LISNIK of Presque Isle  
CARTER of Winslow  
FOSTER of Ellsworth  
CONNOLLY of Portland  
BELL of Paris  
MCGOWAN of Canaan  
CHONKO of Topsham  
SMITH of Mars Hill  
NADEAU of Lewiston

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

Signed:

Senator:

McBREAIRTY of Aroostook

Representative:

HIGGINS of Scarborough

Reports were read

Representative Carter from Winslow moved the acceptance of the Majority "Ought Not to Pass" Report.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't stand here this evening expecting to pass this thing overwhelmingly with a report like that but I would like to make a few comments

before we pass on this matter.

This L.D. 530 is "An Act to Control the Growth of State Expenditures." It is a simple little bill. Basically, what the proposal does is that it seeks to reduce the growth of state government General Fund expenditures by placing a spending limit as to what can be expended in any biennium.

The bill, if you have had an opportunity to look at L.D. 530, is somewhat similar to other proposals which have been before us in years past. It ties the increase in expenditure to the consumer price index of the previous year of the rise in real and personal income, which ever is the lesser.

I think all one has to do to realize that we are spending at a rapid rate and a growth rate which is above Maine taxpayers needs is to look at the budget this year, which we just passed, the \$4.2 billion with an increase of, it depends on what you want to look at, 18 percent or 21 percent of the biennium. When our consumer price index is running about \$3.7 to \$4.2 in the last two years. It is not hard to determine how difficult why our state's fiscal blood pressure is in as bad a shape as it is. When I speak about that, I speak of the fact that we have a tax capacity in this state as of 1983, according to ACIR reports of about seventy-nine and we have a tax effort of about 113, which relates into a tremendous burden on the taxpayers of this state.

I feel with the introduction of L.D. 530 that it is important for us, as legislators, and for taxpayers in this state to have an opportunity to take a look at things before we start on another one of our binges of spending and taxing and spending and taxing, which definitely has occurred in the last few years. I don't think I have to tell anyone here that we are discussing the possibility of returning here in October or November to address that again. We saw what the revenue figures were this last week and we show a surplus of a little over \$13 million. We have a Part II Budget and we have L.D.'s that everyone of us probably hold near and dear to our heart that would like to be funded but there really isn't much of an opportunity to have them funded.

This proposal would not become effective until the budget years of 1987, 1988, 1989; it would only be in effect for that period of time and it would be my hope that we would see the possibility of passing this bill, if only one was not considering that we aren't spending beyond our limits but to give state government the opportunity to realign our tax structure which is in need. I think this is the only way that we can accomplish this. I do think that the opportunity is here now. I think the time is right and I just think that the proposal is for the right time.

I would close in requesting a roll call. I would just add that I think it is time we thought about a change in the direction that we are going in and address that and address that with this L.D.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I am pleased to be a cosponsor of this measure to be some kind of a cap on state government expenditures. Unfortunately, most of us here in the State Legislature belong to the Mae West School of Economics and, of course, the Mae West School of Economics principle is that, too much of a good thing is wonderful. We have a propensity here to overspend. We passed Part I Budget, Part II Budget, allocations, all kinds of bills from you and me collectively and then, in the last few minutes, few hours of the waning days of the Legislature, the Taxation Committee frantically tries to find ways in which to cover our deficits and fund the thing that we are doing. We look at cigarette taxes, sin taxes, excise taxes, additional sales and use

taxes trying to fund the package.

I think it is time that we placed a cap on state expenditures. There is no reason in the world why the state government should be growing faster than the economy and faster than the pocket books of the people back home. It seems realistic to address it at this point in time especially in view of possible federal cuts coming down the pike. I urge you to consider placing a cap on state government expenditures, living within our budget, and I urge you to vote against the prevailing motion.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: What we have before us is a feeble attempt to try and put a cap on state expenditures. I think it is going to cause, if it is passed in its current condition of drafting, nothing but headaches for future legislators. Why do I say that? The way the bill is drafted, it deals only with General Fund Appropriations, dedicated revenues are left alone, special revenues are left alone. We have just enacted the Part I, "to keep the store open" document. By passing that document, for the first time, we have a handle on what state expenditures really are. We have the General Fund listed in the document, we have the federal revenue funds, we have the dedicated revenue funds, you could get a complete picture by looking on one page of the budget document, which is the result of the unified approach that the committee was finally able to put together. This would only serve to undermine those efforts. In the past, when we passed General Fund appropriations, we no sooner left these hallowed halls when the bureaucrats would jump up with joy and say, the legislature has adjourned, now we can spend all kinds of money and they proceeded to do so with federal funds and dedicated revenue funds. But the way the document is currently written, they can no longer do that and I would urge you at this time not to tamper with that process. We are talking about capping state expenditures. We already have a cap. The Cap came on board with tax indexing.

This document also ignores debt services, ignores emergency bills, and this would only have every legislator submit an emergency bill. Furthermore, the draft before us has no teeth at all. It is nothing but another statute. Those of you that have been around here a few years know that when you pick up a document that says, notwithstanding any other provisions of the law, there goes your cap. That is all you need. This document accomplishes absolutely nothing except to clutter up the books and make it more difficult for us to operate.

I would urge you to vote to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Mars Hill, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would go along with the majority of the committee, "Ought Not to Pass." I have a few problems with the bill. I will just mention a few of them, I know it is late.

First, there is a lack of specifics for index that would be used to measure the percent changes in cost of living for personal income. To allow the legislature to select an index on its own discretion would subject the process to political pressure, certainly this section is arbitrary. The measure would also place an unreasonable restraint on future legislators and limit our ability to effectively carry out responsibilities in an effective manner in regards to revenues and federal revenues. Historically, most appropriation measures have required a two-thirds vote by the House and Senate anyway.

Finally, most of the budget in the state government is mandatory anyway. I will give a couple of examples, Education and Retirement,

so it doesn't leave too much that we can try to change around. I hope you will vote for the Majority "Ought Not to Pass."

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: It is appropriate that we are debating this bill this week because I believe, unless I am mistaken, this is the week when we observe that unmentioned holiday, tax freedom day, that is the day and the time of the year when the average American stops working for government and starts working for himself. That is the day when accumulation of local, state and federal taxes are now paid up by the average taxpayer. This is about the second week in May. It is pretty horrendous I think, don't you?

Several years ago, there was a rather spirited discussion about this same issue when an attempt was being made to have a constitutional change that would require a constitutional cap on spending. The opponents to that change at the time were saying "No, no, no, let's not do it constitutionally, we can do it statutorily." That is what we are attempting to do today and it seems to be falling on quite a few deaf ears.

The Representative from Winslow, Mr. Carter, said, this is nothing more than a feeble attempt. Ladies and gentlemen, isn't a feeble attempt to try and curb spending better than no attempt at all?

Representative Carter also said that we just passed enacted the Part I Budget which enables us to keep the store open. The tax payers of the State of Maine aren't looking for a whole shopping center, they are just looking to keep the store open. I think with an 18 to 21 percent increase just for the Part I Budget to say nothing of the Part II Budget coming along, we have done more than keep the store open.

A very few short weeks ago, this legislature had an opportunity to make a positive voice in Washington concerning the federal deficit and failed to do so. Now we have an opportunity to take a positive step to doing something about expenditures on the state level and unless we do so, we are, I think, selling the taxpayers short and doing something I believe, to be very very shameful. We have an opportunity to curb spending. We have a real opportunity to do something for the taxpayers back home, who I believe are telling each and every one of us as we campaign for these jobs and as we go back home to speak with our constituents, that government is spending too much, why can't you do something about it. We are trying to do something about it through this bill as a vehicle. I would urge this House to reject the "Ought Not to Pass" Report so that we can go on and pass the "Ought to Pass."

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: I just can't believe what I am hearing. We need this cap, we are overspending. I think it is a real slap that this legislature and probably the administration, I have been here six or seven years and I don't believe we have gone on a binge and taxed in the time I have been here. Maybe the Representative from Harrison, when he was here years ago as a Senator, saw all of that and probably fought it with all his might then but I don't see it and I haven't seen it now. We have been years without any major tax increases. We have been years through the Longley Administration where everybody tightened their belts. We went years with the man on the second floor saying, no taxes, and we all had to live with that. We haven't had much since he is in his second term. I think it is a lot of posturing and I just don't see any need for it and I am amazed. I didn't expect it and it just got to me specially that binging

and taxing. I wish Representative Kelleher were here, he would straighten this issue out right away.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I rise to join my colleague from Portland in taking exception to the remarks that have been made. I think we have a pretty good process in the Maine Legislature. As Representative Smith has stated, it takes a two-thirds vote of both Houses to pass the budget. We passed a budget in here a short time ago. I don't know where the voices of opposition were, I can't remember the vote of the gentleman, Representative Brown, but if he opposed it, that certainly was his right as it is his right to oppose any budget but the point is that budget passed with a two-thirds vote as every other budget passes through here.

The other problem I have with this whole argument of taxing state expenditures I think it rings as hollow as the argument for a constitutional convention that Mr. Brown made two weeks ago. We are a step or a plateau of government. If we are going to cap our expenditures here in Augusta and we find that money is tight in the 113th but there are some programs that we all want, I will tell you what is going to happen, we are not going to stop spending money here, we are going to start passing programs on to the lower plateau of government, the cities and towns of this state, and we will pass the cost of those programs on to the property taxes. That is what will happen.

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

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question if I may to any Democrat on the Taxation Committee who feels that as a result of our action on the Appropriations Committee that we have placed them in a position of a major tax increase this year?

The SPEAKER: Representative Lisnik of Presque Isle poses a question through the Chair to any member of the Taxation Committee who may care to respond.

The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: Very happily, I would answer that I don't feel as though I have been painted in a corner. I don't feel as though I am being forced to do anything and I would add that it has been my pleasure to serve on the Taxation Committee with the gentleman from Harrison for a couple of years now and I don't think anybody has forced him into anything.

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose another question to Republican members on the Appropriations Committee who feels that as a result of our action on the Part I Budget that we have painted ourselves in a corner for major tax increase in the upcoming session?

The SPEAKER: Representative Lisnik of Presque Isle poses a question through the Chair to any Republican member of the Appropriations Committee who may respond if they so desire.

The Chair recognizes the Representative from Ellsworth, Representative Foster.

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: I like being the newest and youngest member on the Appropriations Committee and I sort of forget over here when I am on that committee that I am a Republican. So, I had to think a minute.

Thank you Mr. Speaker, Ladies and Gentlemen of the House: No, I don't.

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

Representative LISNIK: Mr. Speaker, Ladies

and Gentlemen of the House: I hope you go along with the Majority "Ought Not to Pass" Report.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: As a Republican on the Taxation Committee, I will say that I don't feel that the Appropriations Committee has attempted to paint us into the corner with a tax increase but I think one must recognize that with spending the amount of money that we have expended, recognizing the amount of money that was anticipated for income, we are very, very close and should we have a revenue short fall in any given month it could force us into a position that we might be back here to address the situation by deappropriation of some of the items or a tax increase. So I think we had all better take that into consideration.

I listened to some of the concerns of the Appropriations Committee that has been voiced here in regards to the bill. I would have hoped that if somebody had a real cause for alarm the way the bill was written or something that was not correct in it that they would have attempted to contact me and maybe I could have resolved it. In fact, the one with the percentage change in the cost of living or the real personal income, I am not tied to that and I would be more than welcome, if you will see fit to pass that this afternoon, I can remedy that on the second reading with an amendment and we will just put one index in there so that we can make it very easy for this legislature to determine which index we will use.

It wasn't my intent to paint the legislature with a brush of this being taxes and binges as the Representative from Portland has alluded. I just said that we can tax and spend and go on a binge of taxes and spending and I am sure the record will show that.

I am sure that the Representative knows that when I served in the Senate I was very close with my pocketbook and with the state pocketbook and I think that has been one of the reasons why I have been back here. I have been very conscientious as to what was raised for money and where the money was spent and how it was spent. I think that all of us should be cognizant of that fact that we are all here to represent the people of this state not just the people in our district. I would hope that you, as members of this House, would see fit this evening to pass this on and I can take care of that situation that one of the Representative's mentioned in regards to the choice of indexes. So, again, I would hope that you would support this measure this evening.

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 Winslow, Representative Carter, 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. 66

YEAS:—Allen, Baker, H.R.; Bell, Bott, Boutlier, Brannigan, Brodeur, Brown, A.K.; Cahill, Carroll, Carter, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Descoteaux, Diamond, Drinkwater, Erwin, Farnum, Foss, Foster, Gwadosky, Hale, Handy, Harper, Hayden, Hickey, Holloway, Jacques, Kimball, Lacroix, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Masterman,

Matthews, McCollister, McGowan, McPherson, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, Moholland, Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, E.J.; Paradis, P.E.; Paul, Perry, Pouliot, Priest, Racine, Reeves, Rice, Richard, Ridley, Rioux, Roberts, Rolde, Rotondi, Rydell, Salsbury, Simpson, Small, Smith, C.B.; Smith, C.W.; Stetson, Stevens, P.; Stevenson, Tammara, Tardy, Taylor, Theriault, Vose, Walker, Warren.

NAYS:—Armstrong, Baker, A.L.; Begley, Bragg, Brown, D.N.; Callahan, Connors, Dexter, Duffy, Greenlaw, Hepburn, Hichborn, Higgins, L.M.; Hillock, Ingraham, Jackson, Jalbert, Lander, Law, Martin, H.C.; McHenry, Murphy, E.M.; Nicholson, Nickerson, Parent, Pines, Randall, Scarpino, Seavey, Sherburne, Stetson, Stevens, A.G.; Telow, Webster, Wentworth, Weymouth, Whitcomb, Willey.

ABSENT:—Aliberti, Beaulieu, Bonney, Bost, Carrier, Dellert, Dillenback, Higgins, H.C.; Hoglund, Joseph, Kane, Mayo, Ruhlin, Soucy, Sproul, Strout, Swazey, Zirnkilton, The Speaker.

94 having voted in the affirmative and 38 in the negative with 19 being absent, the motion did prevail.

#### Consent Calendar

##### First Day

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

(S.P. 393) (L.D. 1092) Bill "An Act to Repeal the Minimum Size for Scallops" Committee on Marine Resources reporting "Ought to Pass"

(S.P. 512) (L.D. 1374) 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" Committee on Transportation reporting "Ought to Pass"

(S.P. 326) (L.D. 815) Bill "An Act Relating to Theft Offenses" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-82)

(S.P. 369) (L.D. 1003) Bill "An Act to Amend the Law Pertaining to Postgraduate Education in the Field of Medicine" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-84)

(H.P. 219) (L.D. 253) Bill "An Act Concerning the Allocation of Costs Incurred for Incarceration in County Jails" Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-132)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, May 17, 1985 under the listing of Second Day.

#### Consent Calendar

##### Second Day

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

(H.P. 646) (L.D. 916) Bill "An Act to Regulate Fishing Derbies"

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

(H.P. 834) (L.D. 1178) Bill "An Act to Establish a Vehicle Rental Agency in the Department of Conservation" (C. "A" H-129)

On objection of Representative Gwadosky of Fairfield, was removed from Consent Calendar, Second Day.

Whereupon, the Committee Report was read and accepted and the Bill read once.

Committee Amendment "A" was read and adopted and the Bill assigned for Second Reading Friday, May 17, 1985.

(H.P. 734) (L.D. 1043) Bill "An Act Concerning the Taking of Smelts"

(H.P. 686) (L.D. 972) Bill "An Act to Clarify

the Laws of the Department of Marine Resources"

(S.P. 126) (L.D. 366) Bill "An Act to Amend the Law Relating to Regulation of Business Practices Between Motor Vehicle Manufacturers, Distributors and Dealers" (C. "A" S-80)

(S.P. 142) (L.D. 409) Bill "An Act to Appropriate Grant Funds to the Maine State Commission on the Arts and the Humanities to Support Current Established Programs" (C. "A" S-78)

(H.P. 508) (L.D. 713) Bill "An Act to Amend the School Construction Law" (Emergency) (C. "A" H-128)

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

#### Passed to Be Engrossed

Bill "An Act Concerning Funeral and Burial Expenses of Municipal General Assistance Recipients" (H.P. 1042) (L.D. 1517)

Bill "An Act to Change the Law Relating to Liens for Unpaid Property Tax Assessments" (H.P. 1041) (L.D. 1516)

Bill "An Act to Increase the Competitive Bidding Minimum for County Commissioner Purchases" (H.P. 1038) (L.D. 1512)

Bill "An Act Concerning the Composition of the Board of Elevator and Tramway Safety" (H.P. 1043) (L.D. 1518)

Bill "An Act Concerning Annual Inspection Fees for Inclined Lifts and Vertical Lifts" (H.P. 1044) (L.D. 1519)

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

The following items appearing on Supplement No. 4 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 Provide for the Sale of Savings Bank Life Insurance" (H.P. 1046) (Presented by Representative BRANNIGAN of Portland) (Cosponsors: Representatives MURRAY of Bangor and GWADOSKY of Fairfield) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (Ordered Printed.)

Sent up for concurrence.

#### Reports of Committees

##### Unanimous Ought Not to Pass

Representative MOHOLLAND from the Committee on Transportation on Bill "An Act to Require that Commercial Trucks Carrying Gravel be Covered" (H.P. 967) (L.D. 1402) reporting "Ought Not to Pass"

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

The following items appearing on Supplement No. 5 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:

#### Energy and Natural Resources

Bill "An Act Concerning Extension of the Permit Processing Period for Hydropower Projects" (H.P. 1051) (Presented by Represent-

ative DIAMOND of Bangor) (Cosponsors: Senator USHER of Cumberland, Representatives JACQUES of Waterville and HOLLOWAY of Edgecomb) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed.)

Sent up for concurrence.

#### Fisheries and Wildlife

Bill "An Act to Amend the Law Establishing a Commercial Tag for Atlantic Salmon to Exempt Indians and Persons under 16 Years of Age" (Emergency) (H.P. 1048) (Presented by Representative RUHLIN of Brewer) (Cosponsors: Representatives MURPHY of Kennebunk, DIAMOND of Bangor and Senator PERKINS of Hancock) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed.)

Sent up for concurrence.

#### State Government

Bill "An Act to Establish a Maine-New Hampshire Boundary Commission" (H.P. 1049) (Presented by Representative CROWLEY of Stockton Springs) (Cosponsors: Senator CHALMERS of Knox and Representative ROLDE of York)

(Ordered Printed.)

Sent up for concurrence.

#### Transportation

Bill "An Act to Provide Personnel to Man the Weighing Stations in Southern York County" (H.P. 1050) (Presented by Representative ROLDE of York) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed.)

Sent up for concurrence.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

#### Paper from the Senate

The following Joint Order: (S.P. 580)

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Friday, May 17, 1985, at 12:00 in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

On motion of Representative Jacques of Waterville, the House reconsidered its action whereby (H.P. 1048) was referred to the Committee on Fisheries and Wildlife.

On further motion of the same Representative, was referred to the Committee on Marine Resources, Ordered Printed and sent up for concurrence.

The Chair laid before the House the following item: Majority Report of the Committee on Human Resources reporting "Ought Not to Pass on Bill 'An Act to Provide Family Counseling and Legal Assistance in Cases of Alleged Child Abuse or Neglect'" (H.P. 483) (L.D. 686) which was tabled earlier in the day and later today assigned pending the motion of Representative Nelson of Portland that the House accept the Majority "Ought not to Pass" Report.

On motion of Representative Nelson of Portland, retabled pending her motion to accept the Majority "Ought Not to Pass" Report and specially assigned for Friday, May 17, 1985.

The Chair laid before the House the following item: Resolve, Relating to the Development of an Interagency Plan to Address the Identified Gaps in Mental Health Services for Children and Families (Emergency) (H.P. 931) (L.D. 1337) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Nelson of Portland offered

House Amendment "A" to L.D. 1337 and moved its adoption.

House Amendment "A" (H-135) was read by the Clerk and adopted.

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

The Chair laid before the House the following item: An Act to Mandate Smoke Alarms in all New, Converted or Restored Single-family Dwellings (H.P. 512) (L. D. 717) (C. "A" H-103) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative STETSON: Mr. Speaker, I move the indefinite postponement of this bill and all its accompanying papers.

Mr. Speaker, Ladies and Gentlemen of the House: I won't take very long with this but its better we get it out of the way tonight than next Friday.

I would like to talk to you a little bit about the doctrine of preemption because that is what this bill is all about. This is an attempt by this Legislature to preempt what ought to be left at the local level. It is a clear encroachment on the right of a municipality to provide for the health safety and welfare of its people. Every time we, as a legislature, move into this field, we are excluding our local governing bodies from exercising their sound judgment and jurisdiction over the subject.

Our Maine Supreme Court, just in 1983, in the case of Ellis v. Inhabitants of the town of Boothbay Harbor, 459, Atlantic Second—153 stated, when the state legislature has preempted a field, a municipality may not invade that field in the guise of regulating a field still open to the municipality. I submit that this bill is just the kind of preemption that we ought to avoid at all costs.

This morning, I visited the body at the other end of the hall and I listened attentively to some very persuasive arguments about lifesaving devices and the right to choose as opposed to a legislative mandate that you must protect yourself. As I listened to that, I began to think of other lifesaving devices and the right of individual choice. For instance, a couple of months ago, I chose to have an eye examination for glaucoma and I went on to choose to have a complete physical examination. Now, I said that I chose but I confess that my choice was influenced or even dictated because my own brother had ignored what could have been detected and cured. He died of cancer this past year. The irony is, that prior to his retirement as a naval officer, my brother was required to take periodic physical exams. Now has anyone proposed mandatory physicals? I would hope not. I submit that a lot more of us are dying from curable cancer than are dying from fires in single-family dwellings.

As we tabulate our vote on this bill, I want each of you to think carefully on these questions. Were we elected to serve as building inspectors for every homeowner from Eagle Lake to Eliot? Were we elected to tell every citizen what he must do to protect himself even where it has little or no effect on the health, safety, or welfare of the entire community? Were we elected to tell every homeowner how many doors and windows he must have in his home or that he must have at least one fire extinguisher, one hose and one extension ladder? Were we elected to set up legislative straw men? Laws that read well but cannot possibly be enforced.

I heard the Representative from Winslow talk about cluttering up the books with laws with no teeth in them and about laws that do absolutely nothing. No, Mr. Speaker, I will not vote to tell your homeowners in Eagle Lake that they must install smoke detectors and I won't tell my people in Alna or Whitefield that

they must add another smoke detector with every new bedroom. I ask you not to tell my people what they must or even should do and I will do the same for each of you.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Men and Women of the House: I hope that you will vote against the Representative from Damariscotta's motion to indefinitely postpone this good bill.

Just to remind you again, this bill received a unanimous report from the Legal Affairs Committee. It extends the present state law, which requires that smoke detectors be installed in all newly constructed dwellings. This bill extends that requirement to require that a smoke detector be installed in any renovated home, which adds new sleeping quarters.

The committee heard a great deal of testimony from the Fire Marshal's Office, from firefighters, and from the general public about how many lives have been saved since smoke detectors have been installed in Maine buildings.

Fire is one of the highest causes of death in Maine and smoke detectors have had an important impact on them in the last few years. There was absolutely no opposition to this bill and I hope that you will vote against the motion to indefinitely postpone.

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: The good Representative from Pittston, I think, misses the point. I think the Representative from Lewiston earlier this evening spoke of the bill as it being a matter of choice and I think that is something that we ought to recognize here. It should be a matter of choice as to whether we do what is right or whether we mandate what we think people should do.

I will watch the roll call to see how the members of the Transportation Committee vote on this motion because I feel that they have spoken clearly on mandating of other lifesaving devices and I will be very much interested to see how that vote comes out on this motion.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: I didn't plan on speaking on this one and I know it is going to be a long session. Very briefly, I would just like to say we are talking about consistency here. Under the present law, it is the unanimous committee report. I think, taken as a whole, we have a pretty reasonable committee up there on the Legal Affairs and I hope you will vote against the motion from the good gentleman from Damariscotta. If he has got a problem with the present law, I hope that he will put legislation in next time to take away the entire law but we are talking about consistency under the current law here folks, so, please vote against that motion.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair if I may.

I am sort of concerned about the enforcement mechanism on this particular bill as to who will have the responsibility of ensuring compliance. The reason that I mention this is that I believe it was two years ago we mandated that swimming pools be enclosed with a fence and, as you ride around the country side all over, this is a law that is not being enforced. It is on the books but it is not enforced. I am just wondering if adopting this law we will be in the same situation as the bill we passed on swimming pools. I would like to know who



will enforce this and how will it be enforced.

The SPEAKER: Representative Racine of Biddeford poses a question through the Chair to any member who may answer if they so desire.

The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Ladies and Gentlemen of the House: The present law carries the penalty of a Class E Crime, which is a civil infraction. That would be up to a \$500 fine, which may be waived if the violation is corrected within ten days. The local code enforcement officers would be responsible for bringing the failure to comply with this law to the attention of a person in the town. Since smoke detectors only cost \$10 and can be installed simply by putting them on the ceiling without any tools, it seems likely that this would be a pretty easy law to enforce and to get people to comply without going to court. However, if a person was taken to court, there is a mechanism for the court to make that enforcement.

Representative Stetson of Damariscotta was granted permission to address the House a third time.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I feel constrained to answer the argument of the Representative from Orono that as Dickens once put it, "consistency is the hobgoblin of little minds."

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. All those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is the motion of Representative Stetson of Damariscotta that this bill and accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 67

YEAS:—Armstrong, Baker, A.L.; Begley, Bell, Bragg, Brown, D.N.; Cahill, Carter, Chonko, Clark, Conners, Davis, Dexter, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Holloway, Ingraham, Jackson, Jalbert, Kimball, Lander, Law, Lord, MacBride, Macomber, Martin, H.C.; McCollister, McPherson, Michael, Michaud, Nicholson, Paradis, E.J.; Parent, Paul, Pines, Racine, Randall, Richard, Ridley, Rotondi, Salisbury, Scarpino, Seavey, Sherburne, Smith, C.W.; Soucy, Stetson, Stevenson, Tammaro, Tardy, Theriault, Walker, Wentworth, Weymouth, Willey.

NAYS:—Allen, Baker, H.R.; Bott, Boutilier, Brannigan, Brodeur, Callahan, Carroll, Cashman, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Daggett, Descoteaux, Diamond, Drinkwater, Duffy, Erwin, Farnum, Gwadosky, Hale, Handy, Hayden, Hickey, Higgins, L.M.; Hillock, Jacques, Lacroix, Lawrence, Lebowitz, Lisnik, Manning, Masterman, Matthews, McGowan, McHenry, McSweeney, Melendy, Mills, Mitchell, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nickerson, O'Gara, Paradis, P.E.; Perry, Pouliot, Priest, Reeves, Rice, Rioux, Roberts, Rydell, Simpson, Smith, C.B.; Stevens, A.G.; Stevens, P.; Taylor, Telow, Vose, Warren, Webster, Whitcomb, The Speaker.

ABSENT:—Aliberti, Beaulieu, Bonney, Bost, Brown, A.K.; Carrier, Dellert, Dillenback, Higgins, H.C.; Hoglund, Joseph, Kane, Mayo, Rolde, Ruhlin, Small, Sproul, Strout, Swazey, Zirkilton.

59 having voted in the affirmative and 72 in the negative with 20 being absent, the motion did not prevail.

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

On motion of Representative Diamond of Bangor, the House reconsidered its action whereby Bill "An Act to Amend the Law Establishing a Commercial Tag for Atlantic Salmon to Exempt Indians and Persons under 16 years of Age" (Emergency) (H.P. 1048) was referred to the Committee on Marine Resources.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: I move indefinite postponement of this bill and all accompanying papers.

Upon reference of this bill, a number of members of this body mentioned that they are dealing with this very problem with another piece of legislation that was not designed initially to address the problem we were trying to address and the one that we hope to refer today. As a result of this, they will be able to address our concerns in committee using another bill as that vehicle. For that reason, I ask you to indefinitely postpone this measure and save the taxpayers of Maine a great deal of money.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I believe the sponsor of this piece of legislation is not in his seat and I think as a matter of courtesy it ought to be tabled.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: I am the cosponsor of this legislation and I think I speak for Representative Ruhlin, the prime sponsor, in accepting this indefinite postponement.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I, again, would ask that this would be tabled one legislative day due to the fact that the prime sponsor is not here.

On motion of Representative Diamond of Bangor, tabled pending his motion to indefinitely postpone and specially assigned for Friday, May 17, 1985.

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

#### (Off Record Remarks)

On motion of Representative Stetson of Damariscotta,

Adjourned pursuant to Joint Order (S.P. 580) Friday, May 17, 1985.