

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 20, 1985

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

Prayer by Reverend William Irish, Woodfords Congregational Church, Portland.

National Anthem by the Wiscasset High School Band.

Quorum called; was held

The Journal of Friday, May 17, 1985, was read and approved.

Papers from the Senate

Bill "An Act Defining the Authority of the Bureau of Insurance in Testing, Licensing and Continuing Education" (S.P. 583) (L.D. 1532)

Bill "An Act Relating to Financial Regulation of Insurance Companies" (S.P. 585) (L.D. 1535)

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

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

RESOLVE, Authorizing the Sale of Certain Public Reserved Lands (S.P. 588) (L.D. 1545)

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

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

Bill "An Act to Establish Legislative Council Oversight of Expenditures for Joint Standing Committees, Joint Select Committees and Legislative Investigating Committees" (S.P. 587) (L.D. 1544)

RESOLVE, Concerning the Ownership of Little Jewell Island (S.P. 586) (L.D. 1539)

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

Were referred to the Committee on State Government in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide State Funding Necessary to Match Federal Funds for Home and Community Based Services for Older Citizens" (S.P. 194) (L.D. 512)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act Requesting Upgrading Fees Paid Providers of Dental Services under the Medical Assistance Program" (S.P. 228) (L.D. 590)

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Allocate Costs of Communications by Corporations and Membership Organizations Advocating the Election or Defeat of Candidates" (S.P. 181) (L.D. 499)

Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Require Guides for Hunters who are not United States Citizens" (S.P. 260) (L.D. 639)

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 Utilities reporting "Leave to Withdraw" on Bill "An Act to Prevent Utilities from Passing on to Ratepayers the Investment Losses from Canceled Power Plants" (S.P. 467) (L.D. 1270)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act Concerning the Maine Vocational Development Commission" (Emergency) (S.P. 66) (L.D. 117)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act

to Require District Courts to Send Copies of all Orders and Judgments to the Parties of Record" (S.P. 323) (L.D. 812)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Establish a State Uniform Law on Notarial Acts" (S.P. 333) (L.D. 821)

Report of the Committee Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Improve Remedies for Substandard Housing" (S.P. 309) (L.D. 798)

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Bill "An Act to Establish the Water Well Information Law" (S.P. 522) (L.D. 1406)

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act Relating to the Blaine House Scholars Program" (S.P. 413) (L.D. 1143)

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Improve and Strengthen the Referendum Process" (S.P. 465) (L.D. 1268)

Report of the Committee on Fisheries and Wildlife reporting "Leave to Withdraw" on Bill "An Act to Amend the Laws Regulating Ice Fishing to Change the Line Restriction for Moosehead Lake" (S.P. 449) (L.D. 1252)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Make Improvements in the State Workers' Compensation System" (S.P. 479) (L.D. 1286)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Reduce the Costs of Workers' Compensation" (S.P. 434) (L.D. 1201)

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

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" on RESOLVE, to Establish a Commission to Prepare a Revision of the State's Motor Vehicle Laws (Emergency) (S.P. 321) (L.D. 810)

Signed:

Senators:

DANTON of York

ERWIN of Oxford

SHUTE of Waldo

Representatives:

THERIAULT of Fort Kent

SOUCY of Kittery

STROUT of Corinth

POULIOT of Lewiston

MILLS of Bethel

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

Signed:

Representatives:

MOHOLLAND of Princeton

MACOMBER of South Portland

McPHERSON of Eliot

CAHILL of Woolwich

CALLAHAN of Mechanic Falls

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

Reports were read.

The SPEAKER: The Chair recognizes the Representative Theriault of Fort Kent.

Representative THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I move the acceptance of the Majority "Ought to Pass" Report.

What is involved here is the recodification of Title 29, which is our motor vehicle laws. The committee is divided on this report primarily because of the cost. Most of us agree that it needs to be done; what we do not agree on is the cost. The initial cost quoted to us was in the vicinity of \$45,000 to get this accomplished. We finally were able to bring it down to the vicinity of \$25,000 and at that figure, we don't seem to be able to move it any further so the debate on it will probably be

about the cost.

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

Representative McPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: Those of us that oppose this Resolve feel that the \$25,000 figure is still way too high. Granted, there is a lot more work to recodifying Title 29, the motor vehicle statute. Election Laws were just done a year or so ago for somewhere in the neighborhood of \$6,000 or \$7,000. This has always been done in-house, so to speak.

We have the largest law firm in the state, our staff, our legislative staff, is as high as it has ever been, the statutes themselves in Title 3 clearly direct that the Director of Legislative Research assist in a project of this type. I don't think that we, on the committee, have ever been given an answer other than: "everybody is too busy." As to why it can't be done right here with our people, I don't know.

Mr. Speaker, I move the indefinite postponement of this Resolve.

Representative Cahill of Woolwich requested a roll call.

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

A vote of the House was taken and, 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 Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: It just seems to me with the size of our law firm here within our complex that they should be able to take care of this recodification without our having to send it out to the private sector, which will cost \$25,000 to \$35,000. Each year we have more people in that A.G.'s Office and it just seems to me that that is the place where the work should be done.

I hope you will support the motion to indefinitely postpone.

Maybe we can add an amendment mandating that the A.G.'s Office do their work.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: The reason that I signed this Report "Ought to Pass" is that I believe that we do need to do recodification and I was not in favor of sending it out to have some private firm do it. It is my understanding that this will be done in-house and from the people that I have talked to that seem to know what it would cost to do this, that the best price that they could get would be \$25,000.

I have looked at the other body's report that came in this morning and I am concerned -- it was my understanding that there was going to be an amendment on this and I would hope that somebody would either move that this be tabled until later today or that we would move it in order to get it to Second Reading and find out where the Committee Amendment is.

The SPEAKER: The pending question before the House is the motion of the Representative from Eliot, Representative McPherson, that L.D. 810 be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 72

YEAS:—Allen, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carter, Clark, Connors, Cooper, Davis, Dellert, Dexter, Dillenback, Drinkwater, Farnum, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Kane, Kimball, Lander, Law, Lawrence, Lebo-

witz, Lord, MacBride Macomber, Masterman, McPherson, Moholland, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Paradis, E.J.; Parent, Pines, Rice, Ruhlman, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Swazey, Tammaro, Taylor, Walker, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirnkilton

NAYS:—Aliberti, Baker, H.R.; Beaulieu, Boutillier, Brannigan, Brodeur, Carroll, Cashman, Chonko, Coles, Connolly, Cote, Crowley, Daggett, Descoteaux, Diamond, Erwin, Gwadosky, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Jalbert, Joseph, Lacroix, Lisnik, Manning, Martin, H.C.; Mayo, McColister, McGowan, McHenry, McSweeney, Melendy, Mills, Mitchell, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Paul, Perry, Priest, Racine, Randall, Reeves, Richard, Ridley, Rioux, Roberts, Rolde, Rotondi, Rydell, Simpson, Smith, C.B.; Soucy Strout, Tardy, Telow, Theriault, Vose, Warren

ABSENT:—Bost, Carrier, Crouse, Duffy, Jacques, Michael, Michaud, Pouliot, Stevens, P.; The Speaker

75 having voted in the affirmative and 66 in the negative with 10 being absent, the motion did prevail.

Non-Concurrent Matter

Bill "An Act Relating to Solicitations and Public Office Holding by State Employees" (S.P. 533) (L.D. 1434) which was Passed to be Engrossed as Amended by House Amendment "C" (H-125) in the House on May 10, 1985.

Came from the Senate, Passed to be Engrossed as Amended by House Amendment "C" (H-125) as Amended by Senate Amendment "B" (S-95) thereto in non-concurrence.

Representative Gwadosky of Fairfield moved that the House adhere to its previous action whereby the Bill was passed to be engrossed as amended by House Amendment "C."

Representative Sproul of Augusta moved that the House recede and concur.

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

Representative GWADOSKY: Mr. Speaker, Men and Women of the House: I would request a Division and hope you would vote against the motion to recede and concur. The amendment that was put on in the other body goes 180 degrees in opposition from my unanimous committee report. I hope that you oppose the motion to recede and concur.

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

Representative SPROUL: Mr. Speaker, Men and Women of the House: I don't know if I would agree with the Representative from Fairfield that this goes 180 degrees against the committee report. I do believe that, at some point along the line, there was lack of communication between interested in this piece of legislation and the committee. As part of the bill relating to solicitations and public office holding by state employees, the major thrust of the bill is that state employees can now run for partisan as well as non-partisan municipal office and that is the major thrust of the bill.

Also, in the bill, we did put in some prohibitions, some guidelines in solicitation, and certainly when it was done there were certain members, and admittedly I am one of them, who were unaware at the time that we were taking away certain rights that state employees currently have. This amendment will simply put those rights back in keeping the status quo.

I would ask that you support the motion to recede and concur.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: When I first saw this bill, I said: "this is a bad bill."

I am speaking to you as someone who served as a state employee for 29 years. Anybody who tries to tell you that they are giving rights back to the state employees, you are not, you are taking a protection away from them.

There is nothing now that a state employee cannot do outside of soliciting funds and run for public partisan office. As a state employee, I belonged to the Local and County Democratic Committee, I was the treasurer for a Democratic candidate for County Commissioner, I was a delegate for the last three Democratic Conventions but I should tell you what could happen - while I was in the employment of the Department of Transportation, my immediate supervisor became a candidate for Attorney General and came before this body, joint session, asking and campaigning for it. At the time he asked me what I thought of his chances and I told him what I thought of it - he did not get it. Had I been in a position to be able to solicit funds for him to campaign, I would have said, no, he would be in the position to make the assignments. I would have found out how cold it gets in the "County" in the wintertime and how hot it gets in Portland in the summertime.

I am saying now, do not take the protection away from the state employees. I tell you, as a 20 year member of the Department of Transportation, they only want to do their job, they don't want to be pestered and brow beaten and harassed in making donations. Please, I would ask that you vote down the pending motion.

Representative Sproul requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Augusta, Representative Sproul, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 73

YEAS:—Allen, Armstrong, Baker, A.L.; Baker, H.R.; Beaulieu, Bell, Bost, Bragg, Brown, D.N.; Cahill Callahan, Carroll, Carter, Clark, Coles, Connors, Connolly, Davis, Dellert, Dexter, Foss, Foster, Greenlaw, Handy, Harper, Hepburn, Higgins, H.C.; Higgins, L.M.; Hillock, Holloway, Ingraham, Kimball, Lebowitz, Lord, MacBride, McPherson, Mitchell, Murphy, T.W.; Paradis, E.J.; Paradis, P.E.; Pines, Priest, Randall, Reeves, Rice, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Sproul, Stetson, Stevenson, Taylor, Webster, Weymouth, Whitcomb, Willey, Zirnkilton, The Speaker

NAYS:—Aliberti, Begley, Bonney, Boutillier, Brannigan, Brodeur, Brown, A.K.; Cashman, Chonko, Cooper, Cote, Crowley, Daggett, Descoteaux, Diamond, Dillenback, Drinkwater, Erwin, Farnum, Gwadosky, Hale, Hayden, Hichborn, Hickey, Hoglund, Jackson, Jalbert, Joseph, Kane, Lacroix, Lander, Law, Lawrence, Lisnik, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McColister, McGowan, McHenry, McSweeney, Melendy, Mills, Moholland, Murphy, E.M.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Parent, Paul, Perry, Racine, Richard, Ridley, Rioux, Roberts, Rolde, Rotondi, Ruhlman, Simpson, Smith, C.B.; Soucy, Stevens, A.G.; Strout, Swazey, Tammaro, Tardy, Telow, Theriault, Vose, Walker, Warren, Wentworth

ABSENT:—Carrier, Crouse, Duffy, Jacques, Michael, Michaud, Pouliot, Stevens, P.

63 having voted in the affirmative and 80 in the negative with 8 being absent, the motion did not prevail.

Whereupon, the House voted to adhere.

Petitions, Bills and Resolves Requiring Reference

Reported Pursuant to the Resolves

Representative MCGOWAN from the Joint Select Committee on Forest Practices, pursuant to Resolve 1983, Chapter 85 ask leave to submit its findings and report that the accompanying Bill "An Act Concerning the Forest Resources of Maine" (H.P. 1069) (L.D. 1550) be referred to the Joint Standing Committee on Energy and Natural Resources for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the bill referred to the Committee on Energy and Natural Resources, ordered printed and sent up for concurrence.

Reports of Committees

Unanimous Leave to Withdraw

Representative ALLEN from the Committee on Judiciary on Bill "An Act Concerning Child Protective Services" (H.P. 173) (L.D. 207) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative RUHLIN from the Committee on Marine Resources on Bill "An Act to Clarify the Law Regarding the Taking of Soft-shell Clame" (H.P. 654) (L.D. 924) reporting "Ought to Pass" in New Draft (H.P. 1065) (L.D. 1547)

Report was read and accepted. The New Draft read once and assigned for second reading, Thursday, May 23, 1985.

Ought to Pass in New Draft

Representative CONNORS from the Committee on Fisheries and Wildlife on Bill "An Act Concerning Snowmobile Registration Fund Distribution" (H.P. 755) (L.D. 1076) reporting "Ought to Pass" in New Draft (H.P. 1071) (L.D. 1558)

Report was read and accepted. The New Draft read once and assigned for second reading, Thursday, May 23, 1985.

Ought to Pass in New Draft

Representative GWADOSKY from the Committee on State Government on Bill "An Act to Clarify and Make Technical Changes in the Law Governing Boards and Commissions" (Emergency) (H.P. 687) (L.D. 973) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1072) (L.D. 1560)

Report was read and accepted. The New Draft read once and assigned for second reading, Thursday, May 23, 1985.

Ought to Pass in New Draft/New Title

Representative RUHLIN from the Committee on Marine Resources on Bill "An Act to Clarify Certain Errors and Inconsistencies in Marine Resources Laws" (Emergency) (H.P. 607) (L.D. 877) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Clarify and Correct Certain Laws Relating to Marine Resources Laws" (Emergency) (H.P. 1066) (L.D. 1548)

Report was read and accepted. The New Draft read once and assigned for second reading, Thursday, May 23, 1985.

Ought to Pass in New Draft/New Title

Representative RUHLIN from the Committee on Marine Resources on Bill "An Act to Establish a State Clam Digging License" (H.P. 398) (L.D. 547) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Guarantee Equitable Access to Soft-shell Clam Resources" (H.P. 1067) (L.D. 1549)

Report was read and accepted. The New Draft read once and assigned for second reading, Thursday, May 23, 1985.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought Not to Pass" on Bill "An Act Relating to the Management and Conservation of the Lobster Resource" (H.P. 733) (L.D. 1042)

Signed:

Senators:

SHUTE of Waldo
CHALMERS of Knox
BROWN of Washington

Representatives:

CROWLEY of Stockton Springs
CONNERS of Franklin
SALSBURY of Bar Harbor
RUHLIN of Brewer
COLES of Harpswell
RICE of Stonington
MITCHELL of Freeport
VOSE of Eastport
MANNING of Portland

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

Signed:

Representative:

SCARPINO of St. George

Reports were read.

On motion of Representative Crowley of Stockton Springs, the House accepted the Majority "Ought Not to Pass" Report.

Divided Report**Later Today Assigned**

Majority Report of the Committee on Local and County Government reporting "Ought To Pass" on Bill "An Act to Allow Sheriffs' Deputies to Hold Nonpartisan Local Elected Office" (H.P. 366) (L.D. 486)

Signed:

Senators:

STOVER of Sagadahoc
TUTTLE of York
BALDACCI of Penobscot

Representatives:

ROTONDI of Athens
NICKERSON of Turner
SMITH of Island Falls
DAGGETT of Manchester

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

Signed:

Representatives:

McHENRY of Madawaska
MURPHY of Berwick
HALE of Sanford
WENTWORTH of Wells
MASTERMAN of Milo
SALSBURY of Bar Harbor

Reports were read.

Representative McHenry of Madawaska moved the acceptance of the Minority "Ought Not to Pass" Report.

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

Divided Report

Majority Report of the Committee on Taxation on Bill "An Act to Clarify Taxpayer Information on Local Property Tax Bills" (H.P. 22) (L.D. 20) reporting "Ought to Pass" in New Draft (H.P. 1070) (L.D. 1551)

Signed:

Senators:

DIAMOND of Cumberland
TWITCHELL of Oxford
EMERSON of Penobscot

Representatives:

HIGGINS of Portland
INGRAHAM of Houlton
SWAZEY of Bucksport
WEBSTER of Cape Elizabeth
MAYO of Thomaston
McCOLLISTER of Canton
CASHMAN of Old Town
ZIRNKILTON of Mount Desert
NELSON of Portland

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

Signed:

Representative:

JACKSON of Harrison

Reports were read.

On motion of the Representative Higgins of Portland, the House accepted the Majority "Ought to Pass" Report, the Bill read once and assigned for Second Reading, Thursday, May 23, 1985.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Repeal the Requirement that Certain Tax Information Appear on Local Property Tax Bills" (H.P. 207) (L.D. 241)

Signed:

Senators:

TWITCHELL of Oxford
DIAMOND of Cumberland

Representatives:

HIGGINS of Portland
McCOLLISTER of Canton
CASHMAN of Old Town
MAYO of Thomaston
INGRAHAM of Houlton
NELSON of Portland

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

Signed:

Senator:

EMERSON of Penobscot

Representatives:

JACKSON of Harrison
ZIRNKILTON of Mount Desert
SWAZEY of Bucksport
WEBSTER of Cape Elizabeth

Reports were read.

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

Representative HIGGINS: Mr. Speaker, I move 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: This report, an 8 to 5 report, - the bill is a result of some concerns that has been voiced by many of our town fathers, councilman, whatever the case may be, throughout the state. As you probably are all aware of, we have a requirement which is a statute that the towns and municipalities throughout the state must provide information on the taxpayers bills to the amount that state revenue sharing and aid to education reduces their property taxes by. This proposal, the "Ought to Pass" Report, which I support, repeals that provision. My concerns are there are several municipalities in this state, several communities, which do not have the mechanical or automotive capabilities of providing this information without additional cost to the residents and taxpayers of those communities. I felt that it would be appropriate that we repeal this provision and hope that you people will vote with me this morning.

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

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

Representative HIGGINS: Mr. Speaker, Men and Women of the House: The 111th Legislature set as a priority increasing revenue sharing to municipalities as a means of helping alleviate the property tax burden for our cities and towns as a way of lowering property tax rates for residents and businesses.

Within the legislative budget, without increasing taxes, this legislature set this priority and raised revenue sharing from four percent of General Fund revenues to 4.75 percent for this current year and 5.1 percent for the

next fiscal year.

This legislature, as many of the previous legislatures, has been subject to a lot of criticism, some from municipal officers, some from citizens, that we are not doing our part at all for property tax relief. Many people, primarily the general citizenry, were not aware of the efforts and commitment of the legislature in state government to municipal budgets. What we did in a compromise and with the support of the Maine Municipal Association, which represents the municipalities throughout this state, was provide that a percentage of the tax commitment be stated on each bill, the percentage that reflects state support through revenue sharing, through state aid to education, to show that this legislature and the state truly supports the municipalities in a significant revenue way.

I would hope that you would accept the Majority "Ought Not to Pass" Report and keep this provision on the tax bills.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I concur with my colleague from Portland, Representative Higgins, and I would add one other reason why we should accept the Majority Report on this bill. To many of us in this House, property tax relief and revenue sharing are very important matters. I think we all wrestled with it in the 111th when we raised it from four percent to 5.1. We hear talk now on the federal level of eliminating federal revenue sharing. I would submit to the House this morning that if the amount of money that federal revenue sharing saves the local taxpayer, or a percentage of his tax bill that is saved through federal revenue sharing, were identified so that the property taxpayer knew what this program did for him or her, that program would not be so easily eliminated as is probably going to be. I think that state revenue sharing is a very important program and I think that the taxpayers out there want to know what that does to their property tax bill and I think they have a right to know what it does to their property tax bill.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I speak today in favor of the Minority Report. I speak today as one of several legislators from both parties who have sponsored similar bills to remove state information from local tax bills. Although we do not object to town people knowing the effect of state money on local property tax, we do object to providing partial information. Many legislative actions and state funds affect local property tax.

Only a week ago, many of us objected to a reporter who used partial information to write a story about our legislative leaders. Yet, we want to do the same by reporting only state revenue sharing on local tax bills. What about highway funds, block grants, school funds, civil defense funds, clerk fees and other state mandated expenses? We are not opposed to providing information in a more complete form. The towns that I represent, many of the small towns, practically all the small towns, put out a town report, an ideal place to present a complete summary of state revenues and state mandated expenses. The legislature should be proud of increasing revenue sharing for local municipalities and relieving some of the burden on property tax. But I think this action only brings ridicule on this legislative action by saying on a statement on the tax bills that the taxes are going down, when in effect, many tax bills are actually being increased. I would urge acceptance of the Minority Report.

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

Representative CASHMAN: Mr. Speaker, I would like to pose a question through the Chair. I would like to pose a question to Representative Whitcomb. I would like to ask if it is really your concern that the taxpayers be informed of the amount of money that we give to our local roads and to education and so forth -- why didn't we have a bill submitted this session to provide that information on the tax bill?

The SPEAKER: Representative Cashman of Old Town poses a question through the Chair to Representative Whitcomb of Waldo, who may respond if he so desires.

The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I agree with Representative Higgins and Representative Cashman that the Maine revenue sharing has been a help to the municipalities. The problem I had with the bill in the past 111th and the reason I am supporting this bill today is that you are deceiving the public. When you put on a tax bill as a law that passed and said that, in effect, your property tax is going to be reduced, that is inaccurate. That is the problem I had with the bill in the 111th and I think we should repeal that statute.

Representative Whitcomb is absolutely correct. You are not giving the true picture out there. We are going to be faced this year with a revaluation like some other municipalities in this state and I wonder if you can imagine what the reaction is going to be when we put a statement on that tax bill that says, because of the Maine revenue sharing assistance and the aid to education, that your property tax has been reduced maybe 52 percent when, in fact, the tax bill for 1985 is going to be up 18 percent. I ask you members to consider that one when you vote today.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Law.

Representative LAW: Mr. Speaker, I would like to direct a question through the Chair to anyone who can answer.

If certain municipalities use the federal revenue sharing for special projects, I would like to know how that affects the reduction of taxes on the bill that we are talking about?

The SPEAKER: Representative Law of Dover-Foxcroft poses a question through the Chair to any member who may answer if they so desire.

The Chair recognizes the Representative from Portland, Representative Higgins.

Representative HIGGINS: Mr. Speaker and Members of the House: This provision does not address federal revenue sharing at all. It only addresses state revenue sharing and aid to education.

I would also point out it reflects a percentage of support that the municipality receives from the state on the tax bill. In no way, are we trying to deceive taxpayers that their taxes are going down. Clearly that is the choice of the local municipality.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: Very briefly, I am afraid we may lose sight of what the objective of the sponsors of this bill and the minority report supporters have, as earlier stated by Representative Jackson. I just want to clarify that his concern, as I understood it, was simply that the existing law poses or may pose too much work for those smaller municipalities that don't have the person power to figure out exactly what the dollar amount would be that a persons bill would be reduced. I would just like to point out to the chamber that moments ago on Item 6-9 a 12 to 1 "Ought to Pass" Report, simplified the procedure that we are now following by stating simply that, should

this law pass, a percentage could be noted on the persons tax bill alleviating the need to specify the dollars and cents that a persons bill would be reduced. With that in mind, I don't think there is any question that we have simplified the law, taking care of the gentleman's concern and, for that reason, I urge you to support the motion of the gentleman from Portland.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Men and Women of the House: I rise briefly today to lend my support to the Majority "Ought Not to Pass" Report. In my community of Thomaston, many of our citizens are going to receive a reduced tax bill this year, thank goodness, and the main reason for that will be the increases in state subsidy that the community is receiving. I would like to lend my support.

My municipal officials have no problem with the bill as we are going to change it and I would hope that you would go along and support the majority of the committee today.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't think the debate here this morning is whether state revenue sharing is good for the communities throughout the state or whether the aid to education is good for these communities throughout the state. I, for one, just happen to think that it is very beneficial and I am sure there aren't many members or probably no members of this body that would disagree with that.

I think the issue this morning is not the percentage. The issue is that the bill we have before us repeals the statute which requires that all municipalities place on each taxpayers bill the dollar amount that those taxes were reduced by revenue sharing and aid to education.

We have discussed and had a vote on the previous L.D. which, if the majority of this legislature sees fit and this L.D. before us, L.D. 241, is defeated, that is a fall back position which will make it easier for some of the municipalities throughout the state because all they will have to list is a percentage. But I must remind the good gentleman from Bangor, in the corner, that there are still municipalities out there that still do their tax bills by hand. They don't do them by machine, they do all their computations by hand and the printing--some of the printing by hand. So, there still is an additional cost even with a percentage to some of the communities in the state.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: One final note on this whole debate. Representative Jackson has just stated that the requirement we passed with the previous bill that a percentage figure be included on the tax bill would require a great deal of additional work for some towns. Just to give the House a little history on where this bill comes from--item 6-9, I sponsored. I sponsored it because I spoke last summer to the MMA convention to the assessors convention and the assessors complained to me that the legislature had placed an unnecessary burden on the assessors by requiring that a dollar amount be affixed to every tax bill showing the dollar amount that the tax bill was reduced. I agreed with them. I thought that was unreasonable, it required a calculation done by hand, as the representative said, for every individual tax bill that is made out by the small towns. So, I asked them what they would want the legislature to do to relieve that burden. They said, if you change it to a per-

centage, then we'll be happy. So, with the bill that was just passed, item 6-9, the assessors are happy, it was their bill, they wrote it, I didn't write it, and the MMA is happy. So, I just wonder who we are trying to please by going another step in eliminating it completely.

Representative Jackson of Harrison was granted permission to speak a third time.

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman from Old Town, Representative Cashman, there are four sponsors on L.D. 241 and I, for one, had requests to introduce a bill to repeal the requirement outright. I am sure that the other sponsors on the bill probably had the same request as I am well aware we had other L.D.'s, we had one other L.D. in particular that was before us and I am sure that their town fathers or assessors, whatever the case may be, requested the outright repeal. So, I think we bring it from the heart.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: After listening to the debate, just one comment. Maybe we ought to stop giving them the money, then we wouldn't have the problem.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: I rise today in support of the Minority Report. I sympathize with the intent of the 111th Legislature to inform the taxpayers but I submit to you that putting this statement on the property tax bill is misdirected. In my community, the people read, they even study the annual town report and this is the proper place for that statement to be. The state revenue sharing is, in fact, deducted from the gross commitment of the community and may or may not be a reflection of whether the property taxes are actually increased or decreased in that town. When you send the taxpayer a statement telling him that his tax bill has been reduced and it is, in fact, \$20 or more than it was last year, he is going to be calling his local selectman who you will find is probably a part-time public servant and has all the telephone calls he needs.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: I would like to make one comment in answer to the gentleman from Old Town, Representative Cashman. When he finished, he asked the question, who the sponsors of this are in favor of this bill trying to please? Well, my answer to that question is that there are some towns out there who do not have certified tax assessors, there are some towns out there who do not belong to Maine Municipal Association, those are the towns that we are trying to please.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker and Members of the House: I realize that the bill that we have just voted upon may have appeased the assessors but I think in speaking for the towns people and the other towns officials there is still a desire for more complete information. Yes, it would be very helpful in response to an earlier question to provide the total picture of the effect of the state actions on local taxes and property taxes and provided in the town report, the annual report, but I have to urge you to vote against the pending motion and accept the Minority 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 members present and voting.

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

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

The SPEAKER: The pending question before the House is on the motion of Representative Higgins of Portland 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. 74

YEAS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Bost, Boutillier, Brannigan, Brodeur, Brown, A.K.; Carrier, Carroll, Carter, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Descoteaux, Diamond, Erwin, Gwadosky, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Ingraham, Joseph, Lacroix, Lisnik, Macomber, Manning, Martin, H.C.; Mayo, McCollister, McHenry, McSweeney, Melendy, Michael, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Paul, Perry, Pouliot, Priest, Reeves, Richard, Rioux, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Soucy, Stevens, P.; Tammaro, Telow, Theriault, Vose, Walker, Warren, The Speaker.

NAYS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Brown, D.N.; Cahill, Callahan, Conners, Daggett, Davis, Dellert, Dexter, Dillenback, Drinkwater, Farnum, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Jackson, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lord, MacBride, Masterman, Matthews, McGowan, McPherson, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Paradis, E.J.; Parent, Pines, Racine, Randall, Rice, Ridley, Salisbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, C.B.; Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Tardy, Taylor, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton

ABSENT:—Duffy, Jacques, Kany, Michaud. 74 having voted in the affirmative and 73 in the negative with 4 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. 508) (L.D. 1368) RESOLVE, Authorizing Clayton, Maryann, Jeremy and Elizabeth Huff to Bring Civil Action Against the State and Cumberland County Committee on Legal Affairs reporting "Ought to Pass"

(H.P. 683) (L.D. 969) Bill "An Act to Amend Calculation of Period of Imprisonment under the Maine Criminal Code" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-158)

There being no objections, the above items were ordered to appear on the Consent Calendar 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. 422) (L.D. 602) Bill "An Act to Amend Permit Procedures Relative to Final Disposition of Dead Human Bodies" (C. "A" H-136)

(H.P. 957) (L.D. 1377) Bill "An Act to Amend the Procedures of the State Board of Arbitration and Conciliation" (C. "A" H-137)

(H.P. 139) (L.D. 164) Bill "An Act Requiring Clarification of Dates Upon Which Local Property Tax Penalties Accrue" (C. "A" H-139)

(H.P. 978) (L.D. 1410) Bill "An Act to Place the State Board of Licensure of Administrators of Medical Facilities other than Hospitals Within the Department of Business, Occupational and Professional Regulation" (Emergen-

cy) (C. "A" H-145)

(H.P. 972) (L.D. 1394) Bill "An Act to Modify the Voting Procedure for the Conversion of a Mutual Financial Institution to a Stock Form of Ownership" (C. "A" H-144)

(H.P. 497) (L.D. 700) Bill "An Act Pertaining to Interest on Abated Property Taxes" (C. "A" H-147)

(H.P. 681) (L.D. 967) Bill "An Act to Redefine the Southern Boundary to Enlarge the Moose Hunting District" (C. "A" H-150)

(H.P. 268) (L.D. 338) Bill "An Act Authorizing the Department of Inland Fisheries and Wildlife to Continue to Regulate the Harvest of Antlerless Deer" (C. "A" H-151)

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

(H.P. 703) (L.D. 1013) Bill "An Act Relating to Retirement Options for Legislators" (C. "A" H-154)

On motion of Representative Connolly of Portland, was removed from the Consent Calendar, Second Day.

The Committee Report was read and accepted and the bill read once.

Committee Amendment "A" (H-154) was read and adopted and the bill assigned for second reading for Thursday, May 23, 1985.

(H.P. 883) (L.D. 1240) Bill "An Act to Clarify the Agricultural Exemption in the Worker's Compensation Laws" (C. "A" H-156)

(H.P. 685) (L.D. 971) Bill "An Act to Establish a Budget Committee to Provide Local Input in the Waldo County Budget-making Process"

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

(H.P. 300) (L.D. 389) Bill "An Act to Establish a Kennebec County Budget Committee" (C. "A" H-155)

On motion of Representative Paradis of Augusta, was removed from the Consent Calendar, Second Day.

The Committee Report was read and accepted and the Bill read once.

Committee Amendment "A" (H-155) was read and adopted and the Bill assigned for Second Reading for Thursday, May 23, 1985.

Passed to Be Engrossed

Later Today Assigned

RESOLVE, Concerning the Establishment of a Social Services Transportation Review Committee (Emergency) (H.P. 1053) (L.D. 1529)

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

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

Bill "An Act to Increase Citizen Participation in the Municipal Charter Revision Process" (H.P. 1054) (L.D. 1530)

Bill "An Act to Require Final Usage Labeling for all Surimi Products" (Emergency) (H.P. 1052) (L.D. 1528)

Bill "An Act Pertaining to Municipal Licensing Fees" (H.P. 1058) (L.D. 1538)

Bill "An Act Pertaining to Polling Times" (H.P. 1061) (L.D. 1540)

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

Bill "An Act to Remove the Time Limit for Tabulating Election Returns and the Requirement for the Presence of the Municipal Officers" (H.P. 1062) (L.D. 1541)

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

The SPEAKER: The Chair recognizes the

Representative from Woolwich, Representative Cahill.

Representative CAHILL: Mr. Speaker, Men and Women of the House: I would simply like a brief explanation of what this legislation does.

The SPEAKER: Representative Cahill of Woolwich posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Men and Women of the House: This bill was brought to the Legal Affairs Committee because there was a problem in the 26 hour time limit, the present 26 hour time limit in which the election returns must be tabulated in duplicate in each town. Clerks in large communities need the entire 26 hour time period to complete tabulating returns and it means that the work isn't completed until 10:00 P.M. on the day after Election Day and it is difficult for clerks to ensure that a majority of the municipal officers are present for that whole time. In the present bill, which was reported out unanimously by the Legal Affairs Committee, the municipal officers still must certify the results and present law still says that the results must be reported to the Secretary of State within three days of election. So, L.D. 1541 simply removed the 26 hour time limit, the absolute time limit, which makes it very difficult for people to work straight through. I think that the safeguards on reporting and certification of the results by the municipal officers are still in place.

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

Bill "An Act to Assure Appropriate Education and Treatment of People who are Deaf or Hearing Impaired" (H.P. 1064) (L.D. 1543)

Bill "An Act Concerning Nomination Petitions for Unenrolled Candidates" (H.P. 1063) (L.D. 1542)

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

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

Tabled and Assigned

Bill "An Act to Amend the Law Pertaining to Postgraduate Education in the Field of Medicine" (S.P. 369) (L.D. 1003) (C. "A" S-84)

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

On motion of Representative Brown of

Gorham, tabled pending passage to be engrossed in concurrence and specially assigned for Thursday, May 23, 1985.

Later Today Assigned

Bill "An Act Relating to Municipal Regulation of Hazardous Waste and Chemical Substances" (H.P. 961) (L.D. 1382) (C. "A" H-138)

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

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

Bill "An Act to Amend the Statutes on Sex Offenses" (S.P. 283) (L.D. 772) (C. "A" S-83)

Was reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were Passed to be Engrossed as Amended in concurrence.

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

Passed to Be Enacted Emergency Measure

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

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. 115 voted in favor of the same and 4 against and accordingly, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Repeal the Minimum Size for Scallops (S.P. 393) (L.D. 1092)

An Act to Amend the Laws Relating to Private Investigators (H.P. 242) (L.D. 283) (C. "A" H-127)

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

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

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.

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

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

On motion of Representative Zirkilton of Mount Desert, tabled pending passage to be enacted and specially assigned for Thursday, May 23, 1985.

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

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

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

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

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.

Orders of the Day

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

An Act to Require Notice of the Smoking Policy in Restaurants (H.P. 970) (L.D. 1379)

TABLED—May 17, 1985 by Representative DIAMOND of Bangor.

PENDING—Reconsideration (Returned by the Governor without his approval)

On motion of Representative Diamond of Bangor, retabled pending reconsideration and specially assigned for Thursday, May 23, 1985.

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

HOUSE DIVIDED REPORT—Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-142)—Minority (5) "Ought Not to Pass"—Committee on Business and Commerce on Bill "An Act to Improve Remedies for Violations of Used Car Laws" (H.P. 806) (L.D. 1152)

TABLED—May 17, 1985 by Representative BRANNIGAN of Portland.

PENDING—Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: This matter deals with the prosecution of used car dealers in civil violations mainly in dealing with the inspection sticker law and the information laws that we have about used cars. The situation is quite simple, the Attorney General, in certain serious cases or in cases where there is multiple abuse, will take a dealer of used cars to court to prove these violations. There is just a little glitch in this process that once our Attorney General has proved that there has been civil violation, and to do that our Attorney General has to have witnesses that have been victimized—that is a strong word but when you feel strongly about our cars—when he has witnesses come, who have been abused, the judge rules the used car dealer has done wrong, that is the end of it under present law for the person who has been aggrieved. All we are saying is that the judge can make restitution to that person or persons who have been aggrieved. So it just seems like a very simple matter to the majority of our committee that it is only fair that people who go testify, people who have been abused in the purchase of a used car, should have restitution for what the judge has agreed is a violation. So, I would ask you to support us in passing this law this morning.

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

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I would urge you to vote against the pending motion to accept the "Ought to Pass" Report. As you all know, we have an Attorney General's Office in the state and their function is to prosecute those individuals and firms who violate state laws. This is a proper procedure, a proper thing, for the Attorney General's Office to do.

We have all heard that various committee and various bills at the Attorney General's Office have not felt that they had the time or the staff to handle a variety of tasks so more and more state agencies, legislative committees, are having to go to outside counsel.

This morning we heard a bill regarding recodification of the transportation laws and there is a price tag on it of \$25,000 for outside counsel because the Attorney General's Office doesn't have the staff to handle these things.

Well, this is just the reverse of that. Not only in used car violation cases, not only does the Attorney General's Office want to represent the state, which has always been their role in making sure that the laws of the state are enforced and to prosecute those that violate state laws, but the Attorney General's Office wants to also represent the individual consumer in cases against sellers of used automobiles. This is new ground, this is new policy, this is setting a very dangerous precedent.

For instance, how is the Attorney General's Office with limited staff decide which one of

us they are going to represent in a case involving a car dealer? I submit that it would be discrimination not to represent every Maine taxpayer who asks to be represented by the AG's department. This is a bad bill, it is a bad idea, it is setting new precedent and I submit that we do not want the Attorney General's Office having to act as a private attorney for every individual citizen in the State of Maine. The price tag is going to be horrendous. You can't believe what their budget is going to be in future years. So, I urge you to vote against the "Ought to Pass" Report.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: I am a little bit surprised by the arguments of my colleague from Wilton. I didn't understand any of the arguments that he was raising as being concerns of the Attorney General's Department. What we are talking about here is a very simple bill actually. Right now, the Attorney General has the power to bring to trial those used car dealers who have been accused of a violation of the Used Car Information Act to try to and attempt to get a civil penalty, which is anything from \$100 to \$1,000, which is all present law. What we are saying and what actually happened in one case that occurred through the Attorney General's Department is that, after deciding to take this case to court, the person who was the victim of this particular sale agreed to assist the Attorney General's Department to go to trial with them. The used car dealer was found guilty of the crime, a civil penalty was assessed against that used car dealer and the Attorney General said, thank you Mr. Consumer, you have been a great help and the consumer was there saying, what about me? What do I get for all this? And if that person wanted to get restitution that he deserved he then had to take a separate court action, hire his own lawyer, come back into court a second time and since the used car dealer was already found guilty under that separate court action received the restitution that this bill would allow. All we are saying is that it would be much simpler to combine the cases under one case so that that person who has been a victim of the used car dealer, who has violated the law, can receive his restitution under the same court action. This doesn't break new ground. Right now, the bulk of what the Attorney General's Consumer Division deals with are violations of the Unfair Trade Practices Act. Almost any violation of that Unfair Trade Practices Act, the Attorney General's Office routinely requests restitution for each individual consumer that has been harmed. This is not breaking new ground. All we are saying is that under this particular act of the Used Car Information Act that the Attorney General can do the same thing. If the used car dealer is found guilty and if the judge feels that restitution is in order, he may order that under the same court action. We are not talking about an increase in the Attorney General's staff. The number of cases that are being brought are very low. Right now, there are probably about half a dozen in the last year were brought under this act. The standards that the Attorney General will use in bringing a case will be the same and his primary concern will be for a civil penalty. So, to discuss an increase in staff and a huge fiscal note I think is appropriate. The bill is simply there to provide the consumer with the relief that he deserves under one court action and not require separate court actions. I would urge you to support the majority of the Business and Commerce Committee.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: Despite the harmless title, this bill introduces a whole new concept

to our system of settling disputes between consumers and businesses. If we pass this bill, the Attorney General's Office will be authorized to act as a lawyer for any individual in any dispute with an automobile dealer where the purchase of a used car is involved.

The proponents of this bill have demonstrated no real need for this legislation. In fact, in the hearing, they were able to cite only one instance where this would have been a handy device. The only justification is to improve efficiency and save individuals the time and expense of initiating their own claim using their own attorney. But what they don't tell you is that under this law the state, in fact, will be able to act as the individual consumers advocate on the issue. The state will have to bring in expert witnesses who can testify to those issues and the state will be paying the expert witnesses for their own time to do so.

The consumer already has the right to bring an action for the return of the purchase price or other damages under the Used Car Information Act. The individual is entitled to costs and attorney's fees. There is no need for this bill and I hope you will join me in voting against its passage.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: This bill is what I considered a bad bill and unnecessary. We discussed here the pro's and con's of this. If the AG's office takes a dealership to court and wins, I don't have much sympathy for the dealer. But what you have done here is—I like to stay away from the AG being the advocate of every consumer in the state to press for individual damages, so what we are opening in a Pandora's box. But I will submit to you, there is probably not one lawyer in the State of Maine that would refuse to take the case that has already been tried. It is about the easiest case to make. If the AG has tried a dealership under unfair practices and won, all you have to do is decide what the damages are. I feel that ought to be left to the court system and have the individuals lawyer represent these damages. The AG would incur additional expense to find out what these damages are because expert witnesses have to be brought in to find out what the real damages are. This is different than the Unfair Practices Act, describing exactly what the damages are.

I urge you to vote against the motion and kill this bill because remedies are in place to be used and if the damages are small and no lawyer is necessary, I submit to you, for any consumer in the State of Maine going into small claims court with a decision by the AG's Office and the courts of this state saying that damages are incurred and the dealership is guilty, the remedy is there and it could easily be taken care of in small claims court for small damages and I am sure there will be no difficulty finding a lawyer to represent you if the decision has already been made. So, I urge you to vote against the pending motion.

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

Representative ARMSTRONG: Mr. Speaker, I would ask for a division and urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Unity, Representative Stevenson.

Representative STEVENSON: Mr. Speaker and Members of the House: I have heard it said that this bill is not needed. I think a lot of times there are a lot of things going on here that we don't understand. In fact, I don't understand why I am standing up here on this bill but I did check it and, in the Statement of Fact of the bill, it states: "this bill permits the state in an action for civil penalties to obtain payment of a civil penalty." The amendment says:

"this amendment removes those provisions that allows the state to seek damages for an injured consumer in an action to recover a civil penalty." I can't see with the amendment how we have a bill anyway.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: First of all to address the amendment—the amendment removed subsection two of the bill which deals with damages specifically and would allow the consumer who has been a victim of the Used Car Information Act to receive restitution. There is a difference in the legal terms. So, it is still a valuable tool for the consumer.

I think the thing to remember in this debate is whether or not we want to allow the consumer under one action to receive what he can receive under two separate actions. We are not breaking new ground, the Unfair Trade Practices, which is on the books, which is what the bulk of what the Attorney General's consumer division deals with, already allows the Attorney General to ask for restitution in any case that he brings for any individual consumer. We are not breaking any new ground as far as that is concerned. All we are saying is that, if you support the bill, you will support the idea of allowing under one court action—it is an efficiency in the court system that the consumer may receive that restitution to which he is entitled. If you are opposed to that, you are basically saying what we should be doing is continuing to require two separate court actions, continuing to require that after the Attorney General has found that the civil violation has occurred, that the consumer has to turn around in a separate action, hire a separate lawyer which, in fact, will be paid for by the used car dealer. I don't exactly understand why since the used car dealer will have to pay the attorney's fee of that consumer if he is guilty of the Used Car Information Act why necessarily he would be opposing this bill. But what you are saying is we support this two separate actions system and I would hope you would reject that idea and support the Majority Report of the committee.

(Off Record Remarks)

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

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: May I pose a question through the Chair to anyone who wishes to answer?

The SPEAKER: The Representative may pose his question.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: Did the Attorney General or a representative testify on this bill and if so, was he in favor of this bill?

The SPEAKER: Representative Vose of Eastport poses a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: Yes, the Attorney General's Office not only testified in favor of this bill but requested this bill because they are the ones that have to try to persuade people to come in and give up their time, come in and be witnesses, and they feel rather foolish when they cannot do anything for that person in that action so they wish the courts not to be clogged up with the second round on these actions which are won and this bill is a helpful tool for them in prosecuting used car dealers

who have broken the law.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Baker.

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: May I also elaborate on that explanation. The representative from the Attorney General's Office admitted in his testimony at the hearing that this, in fact, did break new ground for them in this particular area.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: In the 111th Legislature, the Attorney General stated that at this time, the Attorney General's Office explicitly stated that no further remedies were needed or sought because the law, as it existed, already provided protection for the consumers, and that was his opinion in the 111th Legislature.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I think your position should be very clear here today. We are being asked to go on record as to whether we want to continue to help and aid the consumer against improper actions in regards to the sale of used cars. If you are a consumer advocate, you ought to support the majority.

Representative Pouliot of Lewiston 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 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.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: There are really two issues here, one has been alluded to but I don't think has been really cleared up. Right now, when the Attorney General's Office takes a car dealer or an individual firm to court, they are trying to prove that a violation of state law has taken place. It is the State of Maine versus Joe Brannigan's Used Car Sales. If the Attorney General's Office gets a conviction against the used car dealer, what he is saying is I also want to represent any individual that feels that they have been wrongly treated by the used car dealer. Now this becomes a second trial. It isn't something as the good representative from Bangor, Representative Murray said, something that is just automatic that just happens. The judge can say, all right, fine, we'll just give Joe Doe a thousand dollars. A second thing has to take place. The Attorney General's Office has to bring in witnesses, experts on car appraisal, the whole bit, to determine how much each used car buyer that is being represented by the AG's office is eligible in the way of restitution. So, it isn't something that can automatically be pulled along with the criminal case that the AG's office is bringing. That is one point.

The second point is that the Attorney General's office, any way you look at it, does not have the staff, does not have the time to represent every dissatisfied used car buyer in the State of Maine. That is what is going to happen. They don't have the staff, they don't have the time, what they are saying is—in answer to that is well, we can pick and choose, we can represent Joe Doe, but not Mary Doe. We can decide which cases we want to represent. I would say to you that is basically unfair, if we are going to have the Attorney General's Office be private legal counsel for everyone in the State of Maine, there should be no excep

tions. I should be able to use them you should be able to use them, anyone in the State of Maine should be able to use them.

So, I urge you to vote no. This is a bad bill, it is new ground, it is something I don't think that the state wants to get into or has the resources to get into. I urge you to vote no on the pending motion.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: Based on the conversation that I have been hearing today, it would appear that the Attorney General is taking a lot of people to court. However, that is not the case. I would like to bring to your attention some correspondence that I initiated with the Attorney General on the basis that I felt that the Used Car Information Act was not being vigorously pursued by the Attorney General's Office on people that violated the law. As a matter of fact, this law became effective on the 22nd of October 1983, which required a used car dealer to affix in a conspicuous manner a statement indicating the condition of the vehicle. Now, in my travels—well let me go back a little bit, when this was passed, I was a member of the Business Legislation Committee and I was in favor of this particular law. As a result of it, driving around I wanted to make sure that this was being enforced. In York County and Cumberland and I cannot speak for the other counties, used car dealers were not affixing the sticker on the automobile. So, in January of 1985, I wrote a letter to the Attorney General's Office inviting his attention to the fact that based on my personal observations, used car dealers were not complying with the law. The letter was not answered. What I did was I requested that they provide me with information as to the number of dealers that had been cited since November 1, 1983 for violation of the disclosure sticker requirement and how many car dealers had been prosecuted etc. In the meeting that was held with the Consumer Protection Division of the Attorney General's Office, there was one individual, one car dealer, that was brought to court and that was in Bangor. So you are not talking of the Attorney General representing thousands and thousands of people. If this would have been in the books at that particular time, there would have been one incident where the Attorney General prosecuted someone who was in violation of this particular law. So, you are not talking about many things.

Representative Hillock of Gorham was granted permission to speak a third time.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: Just to be brief here and to kind of sum up what we have been talking about I totally agree with the Representative from Biddeford, Representative Racine. The Attorney General's job is to prosecute dealers in the state that don't live up to the law. What we are opening up here is a door to represent each individual in the state. Just imagine what it would be like—to not be discriminatory, you would have to represent all the consumers and we are in court now against Sears and Roebuck as far as service warranty policies. Are we going to get into that the next legislature? Is the Attorney General going to represent every person who bought a service warranty from Sears? I would like you to think about that and vote against this bill.

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

ROLL CALL No. 75

YEAS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Bost, Boutillier, Brannigan, Brodeur, Brown, A.K.; Carroll, Carter, Cashman, Chonko, Clark, Coles, Connors, Connolly,

Cooper, Cote, Crouse, Crowley, Daggett, Descoteaux, Diamond, Dillenback, Duffy, Erwin, Gwadodsky, Hale, Handy, Hayden, Hickey, Hoglund, Jalbert, Joseph, Lacroix, Lisnik, Lord, Macomber, Manning, Martin, H.C.; McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; O'Gara, Paradis, P.E.; Paul, Perry, Pouliot, Priest, Racine, Reeves, Richard, Ridley, Rioux, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Seavey, Simpson, Smith, C.B.; Soucy, Stevens, P.; Swazey, Tammaro, Tardy, Telow, Theriault, Vose, Walker, Warren, Zirkilton

NAYS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Cahill, Callahan, Carrier, Davis, Dellert, Dexter, Drinkwater, Farnum, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Kimball, Lander, Law, Lawrence, Lebowitz, MacBride, Masterman, Matthews, Mayo, McPherson, Murphy, E.M.; Murphy, T.W.; Nelson, Nicholson, Nickerson, Paradis, E.J.; Parent, Pines, Randall, Rice, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Taylor, Webster, Wentworth, Weymouth, Whitcomb, Willey

ABSENT:—Brown, D.N.; Higgins, H.C.; Jacques, Kane, Michaud, The Speaker

83 having voted in the affirmative and 62 in the negative with 6 being absent, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-142) was read by the Clerk and adopted and the Bill assigned for Second Reading, Thursday, May 23, 1985.

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

Bill "An Act to Require Full Disclosure by Financial Planners" (H.P. 793) (L.D. 1123)

TABLED—May 17, 1985 by Representative BRANNIGAN of Portland.

PENDING—Adoption of Committee Amendment "A" (H-143).

Whereupon, Committee Amendment "A" was adopted.

Under suspension of the rules, the Bill was read a second time.

Representative Brannigan of Portland offered House Amendment "A" (H-159) and moved its adoption.

House Amendment "A" was read by the Clerk and adopted.

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

The Chair laid before the House the fourth 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 17, 1985 by Representative DEXTER of Kingfield.

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

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Members of the House: I am a cosponsor of this bill. The facts need to be brought out here into the open, facts instead of figures, anybody can play with figures. The fact is that our forest are in trouble. They have been in trouble for the past 10 years. It has been a little over ten years since we removed the Bureau of Forestry from Cabinet status. I firmly believe that the largest industry in this state should have cabinet rank just as much as Inland Fisheries

and Wildlife or Marine Resources. I hope, after careful deliberation here, that you would vote against the pending motion and support the Minority position.

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

Representative SPROUL: Mr. Speaker, Men and Women of the House: I am a signer of the Minority "Ought to Pass" Report and I would just like to explain why. I don't claim any great knowledge in the area of forestry; however, the case was made and made well that the forestry bureau within the Department of Conservation really was not meeting the needs of the great natural resources which we have in this state; therefore, I signed the Minority "Ought to Pass" Report.

Mr. Speaker, I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: Today I reached a new milestone in my life. This is the first time I stand before you to speak on an issue. L.D. 441 is my bill. I put this bill in after very close consideration of what is happening to our forests. We are, in my opinion, shortchanging woodland management in this state and I think we need a redirection in that department.

I would like to quote to you from a statement by Mr. Anderson at the Second Blaine House Conference of Forestry held last December. He said in part: "forests have been the backbone of Maine's economy for over 300 years and account for more than half of the value of products manufactured for export." He also made a statement to me when he told me at the reception we had over at the Holiday Inn given by the Council of the Indian Tribes that I should withdraw the bill. I said that I had no intention of withdrawing the bill. He said that it wouldn't pass. I said, I think it is time that the legislature realized what is happening to the forests. He made this statement, "in the Department of Conservation, over 70 percent of the work is done in forestry." I want you to remember that now, 70 percent of the work is done in forestry.

Let's see what has happened to the Bureau of Forestry since becoming incorporated into the Department of Conservation. In the year 1974, the combined total of personnel in all the divisions were 227.5 personnel. In the year 1985, there are 243.5, which is an increase of 16. Now folks, let's listen to what has happened to forestry. In the year 1974, there were 159.5 personnel; in the year 1985, 139.5, which is a reduction of 20 people. In other words, in the time that they have been combined, we have gained 36 positions in departments that do 30 percent of the work. This tells me that something is very radically wrong. We all know that forestry is our biggest and greatest natural resource we have in this state. How many of you people know that Maine has the smallest tree size of any state in the union? According to the report given by the Bureau of Forestry, this is a fact and I don't think it is a good fact. I think it shows that we have done a lousy job of managing our forests. I would say that it is time that we get on track because it is like the old farmer said after the horse was stolen, "it don't do any good to lock the door." I think if we don't start doing something about straightening out this situation, we are going to lose the fight and I would hope that you would vote against the "Ought to Pass" and vote with us who feel that this is necessary and vote "Ought to Pass."

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am a small woodlot owner. I burn wood like many of you people do and I am concerned about the

forests in this state and I am concerned about the small woodlot owner. The forests just aren't available for us anymore. I had S.D. Warren's man come out and look at my lot—it took him three years to get there. I do selective cutting, I try to cut the crooked trees and the diseased trees and I use those. I try to preserve the woodlot. This woodlot probably hasn't been cut in the last 40 years.

The large companies up through the north have their own foresters. They take care of what they are doing. They are doing strip cutting. In my area, we are running into this biomass need. It is a great idea to have biomass cutting but I am afraid that in the next few years, there aren't going to be any good logs left in the State of Maine and it is a very serious situation.

The SPEAKER: The Chair recognizes the Representative from LaGrange, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: The forestry resources of Maine have been a major importance to our people since colonial days. Beginning in 1820, Maine has maintained a forestry department with concerns that have changed over the years, changed from the time when we had an abundance of unwanted forests that was burned to a time when we now realize rather belatedly that these resources are finite.

Ten years ago, with the false idea of economy as the reason, the forestry department was merged with another department and ceased to be an independent entity. It became a part of a department with multi-goals, often conflicting goals, that have caused some to feel that the fox and the goose are penned in the same coop.

The perception of the people in my counties, the Penobscot and Piscataquis Counties, that a lack of emphasis on the forestry problems and forestry needs is a serious, even tragic, situation. My people in those counties work in the forests cutting the timber, in the mills manufacturing paper and in the production of manufactured wood products and they are alarmed by the realization that our forestry resources are being so rapidly diminished. They are even more alarmed by what they perceive to be a lack of concern for the future of this resource and the industry and they feel that the time for action is now. They favor the reestablishment of a forestry department, whose primary responsibility will be forestry, forestry resource and forestry management.

Now you may say that my people are not experts, they work for a living and they are concerned about their economic future but let me quote to you from the man who served this state for 44 years in the forestry department and in the last 14 years as the forestry commissioner. He is the author of the book, "10 million acres of Timber." This man is former Commissioner, Austin Wilkins and he says: "I wish to go on record in support of this proposed legislative bill, which to me, restores in state government a separate agency of forestry department. It is significant to mention that the Forestry Department enjoyed a long and distinguished record of 153 consecutive years starting from a single program and developing into a multi-forestry programs later on. Unfortunately, this good performance track record has been somewhat in decline since the creation of the Department of Conservation."

We are living in a time of change and this particular change has had ten years to work and it is not working well. My people urgently implore you to address the problem and they agree wholeheartedly and enthusiastically with the former forestry commissioner, Wilkins, when he says, "it is my sincere belief that a separation of the Bureau of Forestry, apart from the Department of Conservation, would be beneficial."

I ask you support of this bill.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Members of the House: Normally, I do not get up once but I am getting up twice today on this bill, that is how important to me it is.

As far as I know, I am the only one here in this body that earns his living in the woods and I have watched the woods go downhill. I have watched changes over the last 50 years. Yes, I started when I was 12 on the end of a crosscut. I am now 62 and I hope you will vote against the pending motion and send it over to the other body.

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

Representative GWAODSKY: Mr. Speaker, Ladies and Gentlemen of the House: This bill proposes to establish a Department of Forestry to replace the current Bureau of Forestry within the Department of Conservation. I think those who support this concept have illustrated that they believe a Department of Forestry will place great emphasis on forestry in the state, that perhaps greater achievements could be realized from a Department of Forestry and that we finally recognize how valuable the forestry resource is to us by having a Department of Forestry.

What do other states do? There are six states that have independent forestry agencies. In these cases, these agencies are administered by a board or a commission and the commission members are appointed by the Governor and they in turn select the head of the forestry agency. In 43 states, the forestry agency is a part of a larger umbrella department similar to Maine and of these, five of the various agencies are located within a state university system. So, clearly the trend for those forestry agencies, which once existed as an independent entity, has been incorporated into a larger umbrella agency. In no instance has the reverse been the case; in other words, no instance has an independent agency been carved out of a larger department.

Those of us who signed the Majority "Ought Not to Pass" Report did so for a couple of reasons and I would like to offer to you what we believe is the disadvantage results from the decentralization of our natural resource agencies. As has been explained here, the current structure of the Department of Conservation do we all feel comfortable with what we are talking about, presently the Department of Conservation consists of the Bureau of Forestry and the Bureau of Geology. The Bureau of Forestry accounts for more than half of the budget and employees of the department and we believe that the removal of the Forestry Bureau would initiate a decentralization trend that results in a duplication of both personnel and services. Why do I say this? Currently, the bureau's comprising the Department of Conservation can share both personnel and services. The Division of Administrative Services for the Department of Conservation handles all the accounting, the bookkeeping, personal procedures, labor relations, contracting, purchasing and computers for all the various bureaus. This bill does not address how these various functions would be assigned under a separate department of forestry.

Also, there are regional offices that are currently shared by all agencies to include the sharing of receptionists and clerical help. The Bureau of Geology assists the other agencies within the department in mapmaking activities. The Bureau of Public Lands, the Bureau of Forestry, the Bureau of Parks and Recreation share technical people and expertise, particularly in regards to cutting plans and activities. We believe that the creation of a separate department is simply going to mean more duplication than currently exists.

Secondly, when establishing the Department

of Forestry, this bill does nothing to give the Department comprehensive authority or responsibility. All this bill does it to take the statutes dealing with the Bureau of Forestry and changes two words: changes the word "director" to "commissioner" and changes the word "bureau" to "department." The Department is essentially the same, it is identically the same, has the same powers, the same duties as the Bureau of Forestry. The regulatory powers and duties are dispersed among other agencies. In addition, the research, policy planning and various management functions would remain under this bill within the Department of Conservation and the support functions that the Bureau currently enjoys would be lost by the creation of the Department of Forestry.

Thirdly, the proponents and supporters of this bill have said that is is very important to have a commissioner of forestry who has cabinet level status, a commissioner who has his or her ear to the Governor, a commissioner who is a forester; yet the requirements to be a commissioner under this bill are the same requirements as the bureau director currently enjoys. Nothing has been changed in this bill to make this department any more than the current bureau.

Does this mean that those of us who have the signed the Majority "Ought Not to Pass" Report believe that there is no problem? Hardly. We share the concerns that were brought forth this morning. We are concerned about forestry practices, we are concerned about the number of foresters that are available, we are concerned about Representative Dillenback's concern in regards to biomass and the side effects that that might have. Is there anyone out there studying this area? I bring your attention to the report of the Joint Select Committee on Forest Practices. Let me read to you from the Statement of Fact. "The committee finds that the forest resource in Maine suffers from a lack of clear and consistent direction on the action of state government. Insofar as the forest resource constitutes the state's most single important natural asset, the committee strongly recommends that the policy process be adopted, which adopts a coordinated and comprehensive framework for the actions of state government with respect to the forest resource." That policy process, as described in this Statement of Fact, is now in a bill that will be coming out from the Joint Select Committee on Forest Practices. We support that concept and would urge you to do the same.

However, the bill before us today is not a workable piece of legislation. It's a concept, it is a bill on paper, it is a concept that can't work. Nothing in this bill changes the current operation of the Bureau of Forestry except to disrupt it and it does all this at a cost of \$450,000 over the next two years. That is the fiscal note on the bill, \$450,000.

I listened with great interest as Representative Hichborn read into the record a letter that was distributed on your desks last Monday from a Mr. Austin Wilkins, certainly a credible source by anyone's standards, a gentleman with some 44 years in forestry and 13 years in close observation in retirement, author of the book, "Ten Million Acres of Timber" and I listened with particular interest the section on the first page, which says I wish to go on record in support of this proposed legislative bill, which to me restores to state government a separate agency of a forestry department. I bring this up again because it dramatizes the point that the sponsors have indicated this morning that, as Mr. Wilkins says, is absolutely true, the State of Maine did, at one time, have a Department of Forestry.

Now, as Paul Harvey says: "I want to tell you the rest of the story." It was in 1969 or 1970 when Governor Curtis was in office when there was a reorganization of state government taking place. At that time, the state was also considering the first time a tree growth tax law

and Governor Curtis spoke to foresters across the state, spoke to the then forest commissioner and he gave them an option --he said, we can either continue to maintain the Department of Forestry or we can pass the Tree Growth Tax Law. The unanimous opinion, at that time, was that it was far more important to have a Tree Growth Tax Law than it would be to maintain a Department of Forestry. So, it was in those years which the legislature ended up passing the Tree Growth Tax Law and the Department of Forestry was changed from a department to a bureau within the Department of Conservation. Who was the forest commissioner back in 1970 who played a key role in the decision making process that it was more important to have tree growth than it was to maintain a Department of Forestry? None other than Austin Wilkins, the same man who wrote this letter that was distributed on your desks last week.

I know that there are many people who feel a need to support this bill and perhaps send a signal to the Department of Conservation. We would submit, if you are really serious about sending a signal, if you really are serious about forestry practices, you should adopt the recommendations from the Joint Select Committee on Forest Practices. If you are concerned about the fact that there are not enough free foresters and what used to be the free forest service program, the AFDC of natural resources, then you should support Senator McBrearty's bill which contributes more for your foresters. Let's not fool ourselves for a moment thinking that a Department of Forestry is going to cure all our problems particularly a department which represents absolutely no change from the current Bureau of Forestry except to cost the taxpayers of this state an additional one half million dollars.

I would urge you to support the "Ought Not to Pass" Report.

Representative Dexter was granted permission to speak a third time.

Representative DEXTER: Mr. Speaker, Ladies and Gentlemen of the House: I have been here nine years and this is the first time I have ever had to ask permission to speak for the third time -- I guess that shows you just how much I am interested in this measure.

The previous speaker, the gentleman from Fairfield, Mr. Gwadosky, in my opinion, has outlined the reasons why we should have this bill.

I don't know about which Austin Wilkins he has talked to but the one that I talked to, the former forester, told me that he was in full support of this bill.

As far as this bill being unworkable, there are unworkable portions to this bill but you give me a chance on the second reading and I will amend it so it would be workable, believe me. No problem.

As far as that fiscal note, I don't know where they ever came up with \$450,000 but again, if you remember my opening speech, I asked you to just think about facts and not figures because you can do anything with figures.

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I really had not intended to get up here and debate this issue because it was my feeling that I could rely on the expertise of our woodsman from Kingfield, the only man in this body I dare say over the last several legislatures, who has ever earned his living in the woods, other than the Speaker. It makes about as much sense to argue against this particular department as it would be to say: "well, let's do away with the Fisheries and Wildlife Department, let's do away with Marine Resources, put those all in the Department of Conservation," we are dealing with one of the most important resources of our state, the timber resource. Believe me,

I think it is worthy of a separate department and when the gentleman from Fairfield starts to talk about no change, that this was only giving it a different name, a department rather than a bureau, if that is the case, let it be.

I am going to follow the light of the gentleman from Kingfield when we vote on this issue.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I simply have a question for the Representative from Fairfield as a follow up to his comments.

I would like to ask if this current administration did separate Corrections from another department and if so, did they do this, as he suggested, to weaken the influence of that department?

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

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

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

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Members of the House: I think it is only fair that I should answer Representative Gwadosky's statement in regard to Austin Wilkins position when forestry was incorporated within the Department of Conservation. You older folks can go back with me to the years when Austin Wilkins salary was pretty much in total paid by the large landowners of this state. At that time, and he told me this personally after I found out that he was for the incorporation, he was told by the landowners to remain neutral on this situation, which he did.

Now, if something isn't working right, you do something to change it, you just don't stay with it. If you look at my bill, it is only about a half inch thick and if all it did was change two words, it was an awful lot of wasted paper. What I had the intention to do was put the Bureau of Forestry back where it was when Austin Wilkins gave up the position and the department and give them the same duties that they had and do the job that they were doing. As Mr. Dexter says, by golly, if we have to change it, we will change it, but at least give us a chance to do it and do it right.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Hayden.

Representative HAYDEN: Mr. Speaker, Men and Women of the House: In the years I have been in the legislature I have discovered that sometimes things aren't always what they appear in this business and I think this might be an example of that case. We have been talking here today for some time about a concept in a bill that the proponents argue will help to protect our forests, our most important resource in the state. I think as far as our forests being the most important resource in the state, I don't think there is a person here that would debate that. On the way to that conclusion, I think we are being asked to make a couple leaps of faith that are beyond reason and judgment and one of them is to accept a notion that because something is important to us, if we make it a cabinet position, a cabinet level position or department, somehow will cure the problems. There are a lot of issues like that where it is tempting to make some dramatic stand in the hope that will give the

impression that there will be some substantive improvement going forward.

The instance in child abuse that occurs in this state, perhaps we should have a Department of Children because I think, if there is a resource that is more important than the forests, it should be our children. I can see people out there holding their heads to that. My point is this, because something is important, you don't make it a cabinet level position. We have problems, let's address the problems and maybe, in the course of addressing them, we are not going to have one splash of headlines spread across our front pages because the problems we deal with are more complicated than this.

We don't have very much money in this state. We have some serious problems with forestry. As I understand it, the fiscal impact will be nearly half a million dollars over a two year period to make a structural change with no promise of anything else that will follow. I think if there are real improvements to make, let's see the amendments that are going to change the real policy behind that forestry department or forestry bureau. My guess is, we will find those to be a good deal more controversial than this bland idea of changing something from department to bureau. That is the reason I submit the bill is so thick because potentially there are significant changes and we don't have any idea what they are. So, I think this is an instance where we can stand up today and make it appear to the outside world as if we are doing something of substance when, in fact, we don't have any idea what we are doing. It is for that reason I think that the gentleman from Fairfield's speech was very thorough, he had obviously done his homework and the result is a good deal less dramatic.

If I were trying to look for a platform, if I were trying to look for a way to draw attention to myself to make it appear as if I was going to do something substantial, I might take that position. But I think in the end, the real results just aren't there. If we are going to spend half a million dollars in an area where we have a lot of problems, I would like to find out just exactly what those dollars are going to be spent on. I don't think this bill offers that promise.

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I am beginning to feel whipsawed by the gentleman from Durham and the gentleman from Waterboro. I don't know whether to believe one speaker, who says this isn't making any changes at all, it is just changing two words or to believe another speaker, who says that it is changing the whole structure of our government. I would simply say that we used to have a department head heading up the Department of Forestry and I think it is time we had one again.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I didn't intend to get up on this bill but I hope that my good friend down front doesn't think that nobody has ever cut wood but him. I cut wood for \$2.00 a cord. I don't think that we need to spend a half a million dollars for a new bureau. I would hope that you would go along with Representative Gwadosky on this bill.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Gwadosky of Fairfield 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. 76

YEAS:—Aliberti, Allen, Baker, H.R.;

Beaulieu, Bost, Branning, Brodeur, Brown, A.K.; Carroll, Carter, Cashman, Chonko, Clark, Cokes, Connolly, Cooper, Cote, Descoteaux, Diamond, Duffy, Erwin, Gwadosky, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Lacroix, Macomber, Manning, Martin, H.C.; Mayo, McColister, McGowan, McHenry, McSweeney, Melendy, Michael, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Priest, Racine, Reeves, Richard, Rioux, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Smith, C.B.; Stevens, P.; Tammaro, Theriault, Vose, Walker, Warren.

NAYS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Boutillier, Bragg, Cahill, Callahan, Carrier, Connors, Crouse, Daggett, Davis, Dellert, Dexter, Dillenback, Drinkwater, Farnum, Foss, Foster, Greenlaw, Hale, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Masterman, Matthews, McPherson, Mills, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Paradis, E.J.; Parent, Paul, Perry, Pines, Pouliot, Randall, Rice, Ridley, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Tardy, Taylor, Telow, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT:—Brown, D.N.; Crowley, Jacques, Joseph, Kane, Michaud, Soucy, The Speaker. 64 having voted in the affirmative, 79 in the negative with 8 being absent, the motion did not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted and the bill read once.

Committee Amendment "A" (H-106) was read by the Clerk and adopted.

Under suspension of the rules, the bill was read a second time.

On motion of Representative Diamond of Bangor, tabled pending passage to be engrossed and specially assigned for Thursday, May 23, 1985.

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

RESOLVE, to Provide for an Agreement Between the State and the City of Augusta to Establish a Greenbelt Area on State-owned Land on the East Bank of the Kennebec River in Augusta. (H.P. 1017) (L.D. 1468)

TABLED—May 17, 1985 by Representative MICHAUD of Medway.

PENDING— Passage to be Engrossed.

On motion of Representative Diamond of Bangor, retabled pending passage to be engrossed and specially assigned for Thursday, May 23, 1985.

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

SENATE DIVIDED REPORT—Majority (12) "Ought Not to Pass"—Minority (1) "Ought to Pass"—Committee on Transportation on Bill "An Act to Require the Use of Seat Belts in all Motor Vehicles" (S.P. 383) (L.D. 1050)

—In Senate, Minority "Ought to Pass" Report read and accepted and the Bill Passed to be Engrossed as amended by Senate Amendment "B" (S-75).

TABLED—May 17, 1985 by Representative DIAMOND of Bangor.

PENDING—Motion of Representative THERIAULT of Fort Kent to accept the Majority "Ought Not to Pass" Report.

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

Representative THERIAULT: Mr. Speaker and Members of the House: Finally, this long awaited bill is before us. I really don't think that much needs to be said on it. But just to make sure—I am sure that you know by now that the majority of the committee voted against this bill. As a matter of fact, the Report

was a 12 to 1 report. But this might give a wrong impression so I think it is important that I probably bring forth, that many members of the committee regularly wear seat belts, as a matter of choice. We wear the belt because we feel it gives added protection in case of an accident. So, in essence, the committee voted against the bill, not because we thought that the bill did not enhance your chances of survival of an accident, but rather we voted against the bill because it was another government interference into the lives of the people of Maine. The Transportation Committee has members from all the cardinal points of Maine, from Princeton to Bethel, from Kittery to Fort Kent. We also have members from central Maine, we have members from the cities as well as the coastal area. All of us brought to the committee the same message and that message was, stop interfering in our lives. I am sure that all of you have received that same message and that you will heed that message and support the Majority "Ought Not to Pass" Report.

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

Representative CAHILL: Mr. Speaker, Men and Women of the House: A few weeks ago I was asked by the Governor's Safety Council to ride on the convincer. Without riding I can tell you I am already convinced, seat belts do save lives and reduce personal injury. I believe we, as elected officials, should become seat belt advocates and I commend the Representative from Stockton Springs, Representative Crowley, for the study program he organized in the House. I have heard several members say they began the seat belt habit then.

Seat belt usage is an acquired habit, sort of like flossing your teeth. We are raising a seat belt conscious generation and I believe the \$400,000 the automobile industry and the Federal Department of Transportation is spending to pass seat belt legislation nationwide could be more effectively be spent to educate our children. We have had several generations of Smokey the Bear going in the school systems telling us how to prevent forest fires and Woodsy Owl telling us not to pollute. Maine highways are less littered today by a variety of factors but mostly because of the change in society's values through education. I repeat, we need to educate our children, they are the ones that will make the difference.

Some editorial comments I have read in the paper recently said that education just wouldn't work. The fact is, that since this bill surfaced and has been discussed around these halls, voluntary usage has increased from 11 percent to 18 percent. So, I say that argument doesn't work.

The enforceability of a seat belt law would largely be symbolic because our law enforcement people, quite frankly, have more important things to do. The police have an obligation to protect us from the malice of others, not to protect us from ourselves.

Part II of the Highway Budget asks for 17 more state troopers. Do we want these 17 additional troopers enforcing seat belt laws? In March there were 15 highway fatalities in Maine, 12 involved alcohol. Do you suppose a seat belt law would have made any difference to those 12 people who chose to get behind a wheel drunk? Would they have buckled up? Shouldn't our efforts be directed toward getting the drunk drivers off the highway?

We also have a comparative negligence law in Maine. Comparative negligence, in a nutshell means, if this bill became law and for some reason you were not wearing your seat belt, maybe you just forgot and someone else totally at fault hit you, damages to you could be reduced because you were in violation of the seat belt law and, therefore, negligent. And what about those people who consider themselves exceptions to the rule? Should rural mail carriers, delivery people and medical ex-

emptions be granted? What of Peggy Williams, who weighs 450 pounds and a member of the National Association to Aid Fat Americans—she claims she would become a prisoner in her own home because she can't find a seat belt large enough to go around her. Maybe we should outlaw fat people.

Ladies and gentlemen, I am a confirmed seat belt user but I don't see how we, as elected Representatives of the public, can mandate a law when only 15 percent of that public conforms voluntarily.

I request the yeas and nays.

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 Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I am pleased today to appear before you as a cosponsor of L.D. 1050 and support that bill. I have addressed and been quoted on some of the concerns expressed by those people who do not wish to wear seat belts, some of these are myths. One most frequently heard is, it is safer to be thrown clear of an automobile? A person is 25 times more likely to die if ejected from the vehicle than if inside and buckled up. For every opponent who relates a story in which he or someone he knows survived being ejected from a vehicle, there are 25 motorists who are unable to give their side of the story, they are dead.

I would like to ask each of you what forces are actually involved in being ejected from a vehicle? In order to be thrown clear of a vehicle, the occupant is first thrown through the windshield, window or door. Once airborne, the occupant may be flung as far as 16 car lengths. The final outcome of being thrown from a car may involve being scraped along the ground, striking a roadside object or being crushed by your own or another vehicle. None of these outcomes are desirable and can be avoided by buckling up.

These figures and facts are taken from the American Automobile Association medical committees factors, they are not facts that we have made up and quoted to you.

A second frequently cited myth is that seat belts are needed only for long trips and high speed expressway driving. Again, the facts do not support that argument. First, about 70 percent of all serious and fatal injuries occur less than 25 miles from home.

Secondly, death and injuries can occur at relatively low speeds. 80 percent of serious and fatal injuries occur in cars traveling less than 40 miles per hour. Fatalities involving unprotected occupants have occurred at speeds as low as 10 miles per hour, the speed you travel in a parking lot.

Another myth has to do with submerged or flaming vehicles. Many have cited that in instances which a vehicle is either submerged or catches fire, they would rather be unrestrained so they could quickly escape. The facts indicate that their fears may not be entirely reasonable. Less than one half of one percent of all injuries produced in collisions involved fire or submersion, but even in those rare occurrences that do, safety belts are beneficial. The unrestrained occupant will be slammed into the dashboard or windshield and knocked unconscious and be totally unable to extricate himself. Belts keep occupants unhurt and alert. Also, an unrestrained occupant rendered unconscious could block either path from other occupants.

Many parents today take the time to put their child in a seat belt when riding in a car. You can reduce by more than half, risk of serious injury or death by wearing a seat belt. These children at age four are no longer required to wear a seat belt. The time is right for us to require everyone in a car to wear a seat belt.

I had a young family come to me saying that when they came to the Canadian border they stopped the car, buckled everybody into the car, and drove through the Canadian border because it is mandatory law there. One day the father of the family said to his wife, what is wrong with us, if this saves lives in Canada, why aren't we doing it here? From that day forward, he and his wife and all the children buckled up setting an example for those children who were riding in car seats, that when the law no longer affects them, they will continue to buckle up. It sets a good example for our children.

I urge you to vote against the motion of Representative Theriault.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: I agree with the Representative from Fort Kent, Representative Theriault, that this issue is obviously one that is very highly charged and also one in which most of us have some feelings one way or the other. I think it is important to articulate what exactly are the key issues and try to explain in greater detail what this actually means.

Seat belts save lives, we all agree with that. Seat belts save millions of dollars a year in costs that are presently being incurred and borne by citizens of this state. Seat belts save thousands of disabling injuries each year. The most important fact and it is one which has only recently been brought forth to us in the last year or two is that legislation requiring seat belts increases seat belt usage. That is the key fact in this argument.

This bill was before us a couple of years ago and I voted against that particular bill because I was not convinced that seat belt legislation would produce the desired results that we wanted, that all of us wanted. We are now fortunate enough to have some experience from other states which demonstrates that, in fact, that is true. New York state, for example, has seen a reduction of 30 percent of highway fatalities since the introduction of their seat belt legislation. That same experience should be and would be expected on the highways of this state if we were to pass such legislation here. That translates, ladies and gentlemen, into one death per week that would be avoided with the passage of this bill. One tragedy that presently is being experienced by a family, perhaps your constituent, perhaps mine, in this state every week that would not be experienced if we passed this legislation.

The cost of this particular legislation—we, in this state, could be expected to save 30 percent of the costs that are now being borne. In 1983, the costs of highway accidents were estimated at \$157 million in the State of Maine alone. We can expect to save up to 30 percent of that cost with the passage of a mandatory seat belt bill.

We were all very proud, a couple of years ago, to pass legislation in this House and the other body which translated into an incredible cost savings for the hospitals through a hospital cost containment legislation. I would argue that this simple vote to require mandating seat belt usage, we can save comparable costs with much less disruption. The increased usage, which has occurred because of seat belt legislation, in my estimation, has been phenomenal in those states and countries that have required it. Prior to the legislation in New York, as I stated earlier, 10 to 15 percent of those drivers wore seat belts. After the mandatory seat belt law, that figure has risen to 60 to 70 percent

of New York drivers presently wearing seat belts. Education, unfortunately, has not worked. And I am afraid it would not work in the future.

The opponents tell us, and it seems to be the major thrust, one which was repeated often, is that we shouldn't be mandating individual's freedoms. It is not the responsibility of government to make those steps and we should avoid doing so whenever possible. I am afraid this argument, ladies and gentlemen, is flawed in a number of major respects. It assumes that presently we don't require government involvement in individual's decisions to protect themselves from harm. Time and again, we pass laws aimed at protecting people from harm by eliminating their right to make a choice. We don't give the individual hunter the choice not to wear blaze orange while he is hunting in order that he may be protected from harm. We don't give the individual airline passenger the opportunity not to wear a seat belt while he is in that airplane to protect that individual from harm. We don't give the individual passenger on certain boats in the State of Maine the option or the choice not to wear a life preserver to protect him from individual harm. We don't allow the individual the choice to use certain drugs in this state because of the potential for harm to that particular individual. The cases go on and on. We are here to make those prudent judgments. These prohibitions and many more are legitimate public policy decisions and the outcry of some libertarians against these particular measures that I have mentioned has not dissuaded us from passing them in the past and dissuaded us from the merit of those particular measures.

The second major flaw of this argument that it is an individual choice is that it does not recognize the fact that it is not an individual choice alone. I stated earlier that public expense due to costs incurred from accidents, they are phenomenal and they are borne, not by that individual too often, but by all of us through taxpayer's money, through increases in insurance rates, etc. None of us live as a totally independent entity off on his or her own. All of what we do affects those around us and especially on the argument in using seat belts or not.

Finally, I would just raise as the conclusion that this bill perhaps would be better entitled if it were "An Act to Prohibit the Mandation of Air Bags" because that is one of the issues that we are really talking about. If we don't, as a state, as well as with other states in this country, pass legislation requiring seat belt usage, we will be faced as directed by the Department of Transportation on the federal level with the introduction of air bags on every new car that is sold. That cost alone is estimated at anywhere from \$600 to \$1,000 per car. That is the sort of thing that I think we should avoid through the use of seat belts which is a far more effective tool than the air bags themselves.

Finally, ladies and gentlemen, I think we are provided this morning with an opportunity to cast a courageous vote of support for a bill that is aimed at protecting all of us, preventing one tragic death per week in the State of Maine, eliminating 3,000 to 4,000 senseless disabling injuries, saving the State of Maine \$40 to \$50 million a year in wasted costs and finally contributing to the further enrichment of this state.

I would urge you to oppose the present motion so that we can move forward to accept this very sensible bill.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: It is hard to stand up and support this bill because I think all of us realize there is a very strong feeling out there among the public against it. I have heard

many of the arguments that wearing seat belts can actually be harmful. My favorite story is the one from England where a man's car went over a cliff, he was thrown out of the car, grabbed hold of a tree and was saved and then was fined for not wearing his seat belt.

However, these are some of the thoughts I have on the other side. The gentleman from Bangor has just mentioned the threat from the Reagan Administration through Transportation Secretary Mrs. Dole, that the federal government will mandate air bags. I should point out that if air bags are mandated, you will also have to wear a seat belt with the air bags, otherwise they are not effective. But what I primarily wanted to say was, something like more than 40,000 people a year are killed in the United States in automobile accidents, that is also twice as many casualties in one year as we had during the entire Vietnam War. Now we did not offer the soldiers who went into battle there a choice as to whether they wear helmets or flack jackets or any other protective device when they went into battle. The reason for that was that the loss of those soldiers over there diminishes the strength of our nation so we were doing everything we could to cut down the casualties. I maintain that the loss of 40,000 plus people a year in this country from automobile accidents also diminishes the strength of our nation. If we are in competition with other nations, and we are, because we spend billions and billions on defense, then we certainly should take every step to stop this flow of casualties, 40,000 plus people a year killed in action and hundreds of thousands wounded in Maine. Now that is the broad reason I have for supporting this bill. I also have a personal reason. I had a childhood friend—he is the person who actually convinced me to come to Maine and he was that type of macho individual that nothing was going to happen to him in an automobile and, of course, he could not be bothered with ever wearing his seat belt. One day he was driving along at 45 miles an hour during a rain storm and that car just flipped over. Now, even with this bill, he might not have worn his seat belt, but if he had, he would be walking today and not have been a paraplegic for the last eleven years. So, that is always why I wear my seat belt and that is why I support this bill.

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

Representative MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: A seat belt saved my life, it can save yours too if you will only use it. You have to conform to many regulations to put your car on the road today. Is one more item for safety to save lives so very difficult? I know we all feel we should have the right to do as we wish. But the passengers in your car have rights too. The people in the other cars on the highway have their rights as well, the right to travel as safely as possible. The use of seat belts can help to provide that safety.

I hope you will vote against the majority report.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: In regards to seat belts, and we talk of the stories of them saving lives, and I can tell you right now that I, probably more than anyone in this House, appreciate seat belts. As a fighter pilot, I have landed across the decks of aircraft carriers in the South China Sea and to tell you what it is like to de-accelerate from 150 miles an hour to zero in 20 feet and, without a seat belt or a shoulder harness, I assure you I wouldn't be here today. But to me that is not the issue. It is the issue of mandating where do we stop? Individual rights—if a man wants to go out and harm himself, then I would say that is okay.

I have a problem with people that go out and harm other people on the highways. An argument can be made about passengers in vehicles and that brought a note to me on exceptions. What about buses? School buses particularly? There was an issue in my home town that felt every student should be strapped in on a bus. Well, we have to make a logical decision on how practical that is in case of an accident. In my town, there was a head-on collision with a drunk driver operating after suspension, I might add, who rammed a bus head-on. That bus was under immediate danger of catching on fire, there were children injured on that bus I was concerned, if they were all strapped in and being as young as they were, would they have been able to get out? That is only addressing school buses and the responsibility of the driver when you have 50 children in the back of that bus and there is only one person that may be able to get them strapped in and strapped out.

So, I would like you to think about the exceptions in this bill and if it is accepted bring that forth also. I think everybody understands seat belts save lives but where do we stop on mandation of individual rights and that is the question that we are going to have to answer here today.

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

Representative NICHOLSON: Mr. Speaker, Ladies and Gentlemen of the House: A week ago, I was here at the desk studying this particular issue and, and without knowing it, my picture was taken and they say a picture is worth a thousand words, but really the size of that picture probably was worth ten thousand words. I am not going to use that many words. It has all been said why we need the seat belt. There could be some cop-out whether to vote against the seat belt. What I am going to say is this, and I am going to repeat again, we are saving lives, we are reducing injuries, reducing the cost of dollars from our own pockets. But the main thing that I want to put out to everybody here is this, we register a car because we have to, we have it inspected yearly because we have to and I really think for the safety of the driver and those passengers this is just a one, two, three play of the whole picture to protect the people in the automobile. I say this too, as I have said to friends, "buckle up, bucko, buckle up."

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question. We have heard a lot about saving dollars. I am wondering who is going to get those dollars? Has it been proposed that the consumers will get a reduction in their insurance rates if we buckle up? If not, are they going to build more buildings with that money? Would somebody please answer?

The SPEAKER: Representative Smith of Island Falls poses a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question asked, this was brought up at the hearing and some insurance representatives from other states said that they would study the record, insurance premiums, there is a possibility that insurance premiums would be lowered. There is also the possibility that dollars saved would possibly determine how that money would be spent and that perhaps may be determined by us sitting in the legislature.

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

Representative HICKEY: Mr. Speaker, Ladies

and Gentlemen of the House: With the increasing number of cars annually and the number of fatalities growing yearly, it is imperative that seat belts will be mandatory nationwide eventually. We are seeing what has been accomplished in saving lives by the passage of the seat belt law in New York and it is equally as successful in Canada. The testimony we have received from doctors, who have treated patients needlessly, who did not wear seat belts, has been very disturbing and alarming. There is great concern about mandating seat belts.

Two years ago, we passed a child protection law and it has worked very effectively and many people today are grateful we mandated it.

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

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I am rising to speak on this issue because of my son who became a teenager on Friday. I remember that last Fall this Legislature enacted legislation mandating certain changes that will have to occur in his education by the time he becomes a senior in high school five years from now. I would just hope today that we might enact and pass this legislation that might keep my son alive and a variety of other teenagers and adults.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I would like to bring one thing into perspective. Two of the Representatives who spoke went to the federal air bag system that is being proposed by Secretary of Transportation, Dole, I don't know as that is a very legitimate item to be brought up here and debated today. It is not on the percentage of states that go along with this legislation, it is on the population of those states. I would point out to you that the State of Maine comprises one half of one percent and that is all they have to do with that particular air bag legislation. So, I don't think that should be a deciding point in your decision.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to ask you to support the Majority "Ought Not to Pass." Regardless of the fact of the safety factor, we must not lose sight of the fact that we cannot continually mandate to our people. We must also remember that we are hear representing our people. We have talked with our constituents and it is not a case of how we feel personally but how they are responding to our questions, do they want seat belts mandated?

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: Where this bill is affecting everybody in the state, I think we should look at it closely. I have two questions to pose through the Chair, if anyone could answer them, I would appreciate it.

One question is, does this affect school buses?

The second one dealing with paragraph two, saying that it is the duty of the driver to be responsible for the passengers—all passengers over 18, what do we do about the situation where the Representative from Stonington was talking about the teenager driver who is buckled up and the passengers who are under 18 are not buckled up. I think we should look at all these scenarios before we enact this into law.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I hope you

don't mandate this bill today. I have a little story that I would like to tell you. In 1965, I got thrown through a windshield 65 feet; saved two other people's lives. I came out with 65 stitches in my neck and head. The steering wheel went right through the seat. If I had been wearing a seat belt, ladies and gentlemen, I wouldn't be up here talking today. I hope you defeat this bill.

The SPEAKER: The pending question before the House is on the motion of Representative Theriault of Fort Kent 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. 77

YEAS:—Allen, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bost, Bott, Boutilier, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carter, Cashman, Chonko, Clark, Coles, Connors, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Dexter, Diamond, Dillenback, Duffy, Erwin, Farnum, Foster, Greenlaw, Gwadosky, Hale, Harper, Hepburn, Hichborn, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jackson, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lord, Macomber, Martin, H.C.; Masterman, Mayo, McColister, McGowan, McHenry, McPherson, McSweeney, Michael, Mills, Mitchell, Moholland, Murphy, E.M.; Murphy, T.W.; Nadeau, G.R.; Nickerson, Paradis, E.J.; Parent, Paul, Perry, Pouliot, Racine, Randall, Ridley, Rioux, Roberts, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Strout, Swazey, Tammaro, Tardy, Telow, Theriault, Vose, Walker, Warren, Wentworth, Weymouth, Whitcomb, Willey, Zirkkilton.

NAYS:—Aliberti, Baker, H.R.; Beaulieu, Branigan, Brodeur, Carroll, Connolly, Dellert, Descoteaux, Drinkwater, Foss, Handy, Hayden, Hickey, LaCroix, Lisnik, MacBride, Manning, Matthews, Melendy, Murray, Nadeau, G.G.; Nelson, Nicholson, O'Gara, Paradis, P.E.; Pines, Priest, Reeves, Rice, Richard, Rolde, Ruhlin, Rydell, Simpson, Stevenson, Taylor, Webster, The Speaker.

ABSENT:—Jacques, Joseph, Kane, Michaud. 108 having voted in the affirmative and 39 in the negative with 4 being absent, the motion did prevail.

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

HOUSE DIVIDED REPORT — Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Human Resources 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)

TABLED — May 17, 1985 by Representative DIAMOND of Bangor.

PENDING—Motion of Representative NELSON of Portland to accept the Majority "Ought Not to Pass" Report.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: This is another bill that would have mandated something at great financial cost to the state. It was the wisdom of the committee to vote against the bill, it was a 10 to 3 report, I believe. I stand to ask you to support the Majority "Ought Not to Pass" Report on this bill, a very worthy bill, a very fine bill, a bill that has already, in a way, been implemented on the first half of the bill.

The bill asks for two things. It asks that the department have a form to investigate child abuse. Sometimes a good bill will initiate action on the part of the department and this was and is a good bill. Indeed, it did initiate that kind of action. We have a parents handbook in which it states that the purpose of this handbook is to help you understand what child pro

protective service is and how it may affect you and your family. It is not meant to answer every question you might have about child protective services. Your case worker is also able to answer your questions and explain protective services in more detail. You may want to talk to an attorney who has been appointed for you. This handbook has been written for you because we know that when a child protective case worker visits your home you may feel scared, angry and worried about what to expect from the Department of Human Services.

Protection of children and keeping families together, not punishment of parents, is the purpose of child protective services. We believe parents want to do a good job raising their children. But sometimes parents need the help of child protective services to do an adequate job.

Child abuse and neglect has two victims — the child and the parent both need help because no two people or families are the same. The services each family needs will not be alike. The Department of Human Services tries to provide those services to you directly and through agencies in your community. Some parents, due to certain circumstances in their lives, cannot protect their children from harm. Child Protective Service is also a special social service that protects children when their families cannot.

The Department of Human Services does not expect parents to be perfect. There are no perfect parents and no perfect children. At times, every family has problems. The department becomes involved only where the problems are serious enough to cause concern that the children may be abused or neglected. The law that is mentioned in this handbook is called "The Child and Family Services and Child Protection Act" and it tells you where it is and this law tells child protective workers how they are supposed to work with families who have come into the department for attention and what rights and responsibilities those families have. This is the handbook that this bill asks to be put into place and it is being done. The third page of this handbook states the table of contents.

Let me tell you what this handbook has. What is a child protective service? How does my name get known to the child protective service? How can I know who made the report about me? Do the police have to be involved? What rights does this worker have to come into my home? What right does this worker have to talk to my child? What are my rights? What are my child's rights? What does child protective services expect of me? What can I do if I disagree with my worker? What happens if the case goes to court? What can I expect of the Department of Human Services if my child is placed in foster care? And how can I get a lawyer? It has a directory.

Now, the second part of the bill provides for a counsel to be appointed for the indigent parents or custodians at the onset of an investigation if they choose. So the bill now says, that any parent or any person, who is thought to have a problem can receive free counsel and the state will pay for them. Now we all know that every person should have his right and day in court. But this bill asks that before anyone goes to court, they will have a lawyer and if they are indigent, the state will pay. The initial appropriation for this bill was \$794,163 in 1985-86 and in 1986-87, it would be \$947,274.

Ladies and gentlemen, I submit to you this is a worthy bill. Half of it is already being done, the second half is just too expensive. We have a finite amount of money. We have enormous problems with child abuse and neglect. The committee on Human Resources, which is a caring and concerned and hard working committee, felt as it saw all the bills before it that this money could be better spent elsewhere than in the direction the well meaning sponsors had in mind. So, I ask you please to vote

with the Majority "Ought Not to Pass".

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Brodeur.

Representative BRODEUR: Mr. Speaker and Members of the House: I was originally on the Majority "Ought Not to Pass" because that is the way I felt about the original bill, besides the total cost of the bill, there was also a problem that investigation would begin or that notification would have to be given to parents before they would see their child. In certain cases, that would be tantamount to saying that the parents would tell their abused child it could never speak to an investigative case worker.

But the other part of this bill made the issue of child abuse and investigating child abuse and neglect more complicated. The cost of this bill in the original bill, I thought, was just too great. But then the Cumberland County Child Abuse and Neglect Council suggested some amendments and changes to the bill. I like for you to think of yourself as having children or some people you know having children who have been alleged to being abused. The Department of Human Services comes in and says, we are from the Department of Human Services and we are here to investigate you for child abuse and neglect. It is very clear that the words that the department used in their manual, scared, angry and really concerned and not really sure what to do is something that could be a real problem. If you are also in a situation where you are poor and cannot afford an attorney, you are in a very difficult situation where your child could be taken away from you. It seems to me, under these circumstances, that the problem is a very real problem. There have been some instances where children have been taken out of the home and found out that that was the wrong thing to do because of certain conditions.

I want to address the issue that is before us. I am presenting an amendment, should this bill go to second reading, which was just presented on your desk, H-165, which would amend the bill so that the parents rights will be given, the parents rights to counsel, legal counsel, and the parents rights would be given to the parents at the first time the parents are contacted, not when the child was originally contacted. I would hope that this bill could go to second reading so that the amendment could be considered. The amendment also reduces the fiscal note by about half, so that addresses the second part of my concern.

I was originally concerned that this would make the child abuse investigating situation more complex and it does do that. It gives the parents more legal rights and more rights to legal counsel than it originally had. But in thinking about that, it is only fair. If we are going to have a system that investigates child abuse and neglect, we ought to give all parties equal rights.

I hope you would defeat the motion before you and allow the "Ought to Pass" Report to be given a first reading so I could have a chance to amend the bill in the second reading.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I am the sponsor of this controversial measure. I don't usually disagree with my charming seatmate to my right and I am glad to say that she said it was a good bill even though she is opposed to it.

I was asked to put this bill in by the leading low income group in the state. The reason that they asked me to put it in was they felt very concerned about their position vis-a-vis the Department of Human Services, particularly because many low income people do not have the resources to take care of their children perhaps as the department would like them to. There is the story, for example, of the child that

fell off a balcony and it happened to be that somebody was underneath to catch that child and saved the child's life and then the department stepped in because they accused the parents of neglect for letting that child on the balcony.

There has been talk about the fact that some of this bill has already been enacted by the department and that is true as far as notifying people of what their rights might be.

The second part of the bill, which is really what is basically before you, deals with providing legal protection to people who can not afford it during a very difficult period in dealing with the department. Now, this is something that faces anybody who is accused of child abuse. The department comes in and investigates a situation. There is a period there before anything goes to court in which, in many instances, a person has been accused of child abuse and sometimes in the eyes of the department they have been convicted of it. The Representative from Brunswick knows of a situation where one man now has been suspended from his job without pay for over nine months, the department has accused him of child abuse; yet there is not enough evidence to take that case to court. So, this person in a sense has been convicted. This has also happened in a case in my area that I worked on with other Representatives in this body about a man that has been accused and it has been over a year and a half now. Now, some of those people in that situation would run out and get a lawyer if they could afford it. I know of one family that has practically bankrupted themselves having some legal protection against the department. But the indigent person cannot do that. So we have set up a double standard in effect. When the case gets to court, yes, the court appoints a lawyer for the indigent person, but in the meantime, if you have the department breathing down your neck and you have got the money you can go out and hire a lawyer to protect yourself; if you are an indigent, you can't. Now the question was brought up, why can't Pine Tree Legal do this? They simply don't have the resources.

So, I would just like to comment too about the fiscal note that the gentlelady from Portland mentioned when she talked about \$794,000 and \$940,000—part of that fiscal note—of course, these fiscal notes came from the department which is very much opposed to the bill—the first one asked for 22 new positions in the department to deal with the first part of the bill, the notification part. Because of the changes that we have made in that, that is no longer necessary, that is why there would be a new fiscal note. Now, their figures and those of Pine Tree Legal as to what this might cost are so far apart that it is just absolutely ridiculous, it is something like the difference between \$50,000 and \$360,000. I would just go with the words of the gentleman from Kingfield, Mr. Dexter, on a previous bill today, in regards to whatever you want to think about figures. So, I would ask you also to keep this bill alive.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I would also like to remind you that if there is ever a lawyer's bill, this is it. Inside the handbook that will come out, it states that if you can pay for a lawyer, you may want to hire one of your own, if you do not know any lawyers and need help finding one, the following service is available for a consultation fee of \$10 for the first half hour. Then they list a series of people who can help them. If you cannot pay for a lawyer, the following statewide service is available and may be able to help you, may be able to help you, that is true and that is listed.

The Maine Volunteer Lawyers Project is part of Pine Tree Legal Assistance Incorporated and

they make referrals to other lawyers who may agree to assist you. Now, if the department files a child protective petition in court on your child's behalf, you should have a lawyer. If you cannot pay for a lawyer, the court will appoint and pay for a lawyer for you, a court appointed lawyer if any lawyer in private practice was also willing to accept court appointed cases. Nobody says that these people don't have a right to free counsel, they do. This bill asks that the people of the State of Maine pay for the right to have free counsel. We are simply saying it would be wonderful if we could do that, we simply can't afford that, not if you have a list of other priorities which our committee did and I hope that you have too as it relates to child abuse and neglect. We don't have enough money to care for the victims, we don't have enough money to care for the perpetrators and now we are asking that the State of Maine citizens pay for lawyers as well?

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Kimball.

Representative KIMBALL: Mr. Speaker, Ladies and Gentlemen of the House: I never thought I would be rising in the House in opposition to a bill with a title involving family counseling, given my profession. However, as much as I do empathize with the Representative from York, Representative Rolde, regarding the apparent way that the Department of Human Services at times pursues its cases with low income people, I really agree with Representative Nelson that increasing litigation is not necessarily the way to go and that perhaps, ladies and gentlemen of the House, what we need to do is think about sending a message to that department in regards to the way they pursue those cases from the legislature. I am think that perhaps that is the direction we ought to look to in terms of giving that department a message as to how we feel about the way they pursue their cases and not throw more gasoline on the fire in terms of increasing litigation.

I would urge you to go with the Majority "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

Representative SEAVEY: Mr. Speaker, Men and Women of the House: This bill is a reaction to an investigation conducted by the department a year or so ago. I think it is a poor reaction. I urge you to defeat the legislation and vote yes on the pending motion.

This bill I believe hurts the child who is being abused. It allows the parents to throw up barriers into an investigation. It allows parents, I believe, almost to veto power over the investigation. The bill states something about the parents shall participate in a plan if they want to and, if they don't want to, then the department has to go back and review the situation. To me, that seems almost like a veto.

The department has too much to do really to conduct groundless investigations. They are involved only if there is a true need. I say, do not do a disservice to the abused child and I hope you vote yes on the pending motion.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Brodeur.

Representative BRODEUR: Mr. Speaker and Members of the House: Just one more point. The problem is, when that Human Services worker comes to the home to talk to the parents, what the parent says or doesn't say can be used against them when it comes to a court relating to removing a child from the home. It can't be used against them in a criminal proceeding but it certainly can be used against them in a civil proceeding. It seems to me that if it were your child or a child of a friend of yours, who couldn't afford to get legal protection and had that chance of losing their child, I think what the state can do to

assure that they receive equal treatment is definitely worth it.

Representative Connolly of Portland 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 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 Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker and Members of the House: Very briefly. For a parent there is probably no situation that is more threatening and more frightening when a child protective worker from the Department of Human Services shows up at your door and says that they are there to begin an investigation into a complaint that you have possibly abused your child. This legislation would attempt to provide the parent and the child with all the legal protections that anybody else would be able to afford if they had the money. This legislation is not by any stretch of the imagination a lawyer's bill as the Chairman of the Committee would try to characterize it. It is a bill whose primary intention is to try to help children and their parents.

The principal argument that the committee has used in voting against the bill is the cost that is associated with it. It has been said in the halls, if not in the committee, that this piece of legislation was the one single piece of legislation that the Department of Human Services feared the most during this session of the legislature and they are the ones who put the price tag on the bill. There is other information that says the price tag is considerably lower.

I would hope that we would defeat the pending motion and let the bill get to second reading so the proper amendment could be put on it.

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I am a little bit confused as to whether this is or is not a lawyer's bill. I noticed that the Representative from Brunswick voted no and I voted yes.

I don't know who it benefits. I suppose it is to benefit the poor and so you can't call it a lawyer's bill. On the other hand, I would have to go with the Representative from Portland and say that the cost is just too high.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to remind the House that on many occasions the Commissioner of Human Services has been in front of our committee and the main thing that the Commissioner would always say to us is, he would always want to make sure that he would try to keep the family intact, that is the position he has been taking for the last six years and that is to make sure that that child stays in the home if it is at all possible. I think this bill would help keep that child or children in the home and I think it might be something that the Department have to work on but I think they are going against their own philosophy when they are saying that they don't want those people to be helped.

The SPEAKER: The pending question before the House is the motion of the Representative from Portland, Representative Nelson, 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. 78

YEAS:—Allen, Armstrong, Baker, A.L.; Begley, Bell, Bott, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carter, Cashman, Connors, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Diamond, Dillenback, Drinkwater, Duffy, Erwin, Farnum, Foss, Foster, Greenlaw, Gwadosky, Hale, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jackson, Jalbert, Kimball, Law, Lawrence, Lebowitz, Lord, MacBride, Macomber, Martin, H.C.; Masterman, Matthews, Mayo, McHenry, McSweeney, Melendy, Moholland, Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nickerson, O'Gara, Paradis, E.J.; Parent, Paul, Perry, Pines, Racine, Randall, Rice, Richard, Ridley, Rioux, Roberts, Rotondi, Ruhlin, Salsbury, Seavey, Sherburne, Simpson, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Swazey, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

NAYS:—Aliberti, Baker, H.R.; Beaulieu, Bost, Boutillier, Brannigan, Brodeur, Carroll, Chonko, Clark, Coles, Connolly, Dexter, Handy, Higgins, H.C.; LaCroix, Lisnik, Manning, McCollister, McPherson, Michael, Mills, Mitchell, Murphy, E.M.; Priest, Reeves, Rolde, Rydell, Scarpino, Strout.

ABSENT:—Bonney, Jacques, Joseph, Kane, Lander, McGowan, Michaud, Nicholson, Paradis, P.E.; Pouliot, The Speaker.

110 having voted in the affirmative and 30 in the negative with 11 being absent, the motion did prevail.

Bill Held

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

Representative GWADOSKY: Mr. Speaker, is the House in possession of: Bill "An Act to Establish a Vehicle Rental Agency in the Department of Conservation" (H.P. 834) (L.D. 1178) (C."A" H-129)

(—In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-129) on May 17, 1985.)

The SPEAKER: The Chair would answer in the affirmative having been held at the Representative's request.

On motion of Representative Gwadosky, under suspension of the rules, the House reconsidered its action whereby L.D. 1178 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same Representative offered House Amendment "A" (H-161) to Committee Amendment "A" and moved its adoption.

House Amendment "A" (H-161) to Committee Amendment "A" (H-129) was read by the Clerk.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: This is a technical amendment which adds the fiscal note to the bill.

Subsequently, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

The following items appearing on Supplement No. 5 were taken up out of order by unanimous consent:

Papers from the Senate

The following Communication:
The Senate of Maine
Augusta

May 20, 1985

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

Dear Clerk Pert:

Please be advised that the Senate joined in a second Committee on Conference on "Resolve to Name the Wiscasset Bridge the Donald E. Davey Bridge." (H.P. 373) (L.D. 492)

Thank you.

Sincerely,
S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

ADMINISTRATIVE SUPPLEMENT

Monday, May 20, 1985

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

In reference to the action of the House on Friday, May 17, 1985, whereby it Insisted and Asked for a second Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representatives:

ALLEN of Washington

MILLS of Bethel

STROUT of Corinth

Reports of Committees**Unanimous leave to Withdraw**

Representative MICHAEL from the Committee on Agriculture on Bill "An Act to Amend the Maine Milk Pool Law" (H.P. 959) (L.D. 1380) reporting "Leave to Withdraw"

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

The following item appearing on Supplement No. 4 was taken up out of order by unanimous consent:

Paper from the Senate

Bill "An Act to Clarify the Definition of Wage Within the Maine Wage Assurance Fund" (S.P. 595)

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

Was referred to the Committee on Labor in concurrence.

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

Reports of Committees**Unanimous Leave to Withdraw**

Representative MICHAEL from the Committee on Agriculture on Bill "An Act to Change the Lime Law" (H.P. 307) (L.D. 396) reporting "Leave to Withdraw"

Representative MICHAEL from the Committee on Agriculture on Bill "An Act to Compensate Associations Conducting Winter Harness Racing Meets" (H.P. 865) (L.D. 1222) reporting "Leave to Withdraw"

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

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

Paper from the Senate

The following Joint Order: (S.P. 596)

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Thursday, May 23, 1985, at 5:00 in the afternoon.

Came from the Senate, read and passed.
Was read and passed in concurrence.

The Chair laid before the House the follow-

ing matter: Majority Report of the Committee on Local and County Government reporting "Ought to Pass" on Bill "An Act to Allow Sheriffs' Deputies to Hold Nonpartisan Local Elected Office" (H.P. 366) (L.D. 486) which was tabled earlier in the day and later today assigned pending the motion of the Representative from Madawaska, Representative McHenry, that the House accept the Minority "Ought Not to Pass Report."

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

Representative CAHILL: Mr. Speaker, Men and Women of the House: I would ask you today to go against the motion of the Representative from Madawaska, Representative McHenry. L.D. 486 is my bill and I would appreciate your special support today so I can amend it in second reading to remove some objectionable language.

In Sagadahoc County, as I am sure in every county, we have a shortage of people willing to accept positions such as zoning boards, appeals board, planning board and school board. I believe Deputy Sheriffs' should be allowed to hold certain elected and appointed local offices.

Several members of the Local and County Government Committee felt that a conflict of interest could arise in the case of selectman, city council and budget committee so the amendment that I hope to offer will exclude these offices. Earlier this year, we passed a similar law to allow state police officers to hold elected offices and I think we should be consistent today. As elected officials ourselves, I am sure each of us are aware of how very difficult it is to find people willing to offer a commitment to such offices. This bill will add another group of people eligible.

The SPEAKER: The pending question before the House is the motion of the Representative from Madawaska, Representative McHenry, that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

24 having voted in the affirmative and 91 in the negative, the motion did not prevail.

Representative McHenry requested a roll call.

The SPEAKER: 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 an insufficient number having requested a roll call, a roll call was not ordered.

Subsequently, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for Second Reading, Thursday, May 23, 1985.

The Chair laid before the House the following matter: RESOLVE, concerning the Establishment of a Social Services Transportation Review Committee (Emergency) (H.P. 1053) (L.D. 1529) which was tabled earlier and later today assigned pending passage to be engrossed.

Representative Theriault of Fort Kent offered House Amendment "A" (H-160) and moved its adoption.

House Amendment "A" (H-160) was read by the Clerk.

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

Representative THERIAULT: Mr. Speaker, Members of the House: The only thing that this amendment does is that it adds a fiscal note to the bill.

Subsequently, House Amendment "A" was adopted.

The Resolve as amended by House Amendment "A" was passed to be engrossed and sent

up for concurrence.

The Chair laid before the House the following matter: Bill "An Act Concerning the Location of Agency Liquor Stores and the Licensing of Seasonal Agency Stores" (H.P. 1047) (L.D. 1522) which was tabled earlier and later today assigned pending passage to be engrossed.

Representative Smith of Island Falls offered House Amendment "A" (H-164) and moved its adoption.

House Amendment "A" (H-164) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: This amendment will leave the law as is. The stores will be located by radius, not road miles.

The enactment of public law of 1979, Chapter 117, amended the language of 20 MRSA, Paragraph 153 in pertinent part to read as follows: "the Commission shall not license any additional agency stores which should be within the 10 mile radius of a state or agency store. It has been held by a court that a straight line across a swamp rather than distance by a road around the swamp was the proper way to measure the distance of three miles from any church or schoolhouse, sales of liquor being prohibited within such radius."

It just so happens that my town is within a 10 mile radius of a state liquor store and also an agency store. The agency store was placed there using road miles as that town also was within the 10 mile radius of the state store.

I called the Bureau of Alcoholic Beverages last September and asked how they located the stores. I was told - by road miles. I asked how the law read and was told - radius. It was used, not once but twice in the law. I asked why radius was not used and I did not get a very good answer.

I wrote the Attorney General's Office for an opinion and as I read to you, radius was the law and that is the law.

Now we have another bureaucrat doing what he very well pleases -- has broken the law in more than one instance in placing agency stores. What are we doing about it? If you pass this bill without the amendment, you will be giving another bureaucrat a chance to cover his tracks. If we are going to give him a free reign, then we won't need any laws. I say that the man should be fired. If he was working for me, he certainly would be. Is he working for himself or the people of this state? It is time that the laws were enforced. Let's not let this bureaucrat off the hook.

Another thing that bothers me is: which way are we really going? Who is at the wheel? Do we have an OUI here? Think about it. We passed tough OUI laws, roadblocks, we want to raise the drinking age, we want to warn pregnant women the harm and effects of alcohol, we promote chemical free parties for our graduating students, we have to raise the premium tax on alcohol to help more people kick the habit -- then we propose laws such as this to promote the sale of more liquor. Does this really make sense? Of course not. Are we supposed to make sense? You will have to answer that one.

If this passes without the amendment, my town will qualify, under this new law, for having a store and we don't need it. We are a small town, less than 1,000 people. I hope you vote for this amendment and I would ask for a roll call.

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

Representative REEVES: Mr. Speaker, I move the indefinite postponement of this amendment.

The Legal Affairs Committee have several

bills and heard considerable testimony about the issue of 10 mile limits between agency stores and state stores. In order to make it absolutely clear that this ten mile limit would be measured by the straightest available road miles, we wrote them into L.D. 1522.

I hope that you will hold by the vote that you took last week in support of this unanimous committee report and vote to indefinitely postpone the Representative from Island Falls amendment.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: I will be very brief but I would like to ask you one question. Have you ever tried to explain to one of your constituents the rationale behind establishing and using the radius instead of road mileage to establish distance between liquor stores? I have a fellow in my district who wants an agency store. he is 10.8 miles from the Caribou Store, he is 11 miles from Van Buren by mileage. He is 7.8 miles by radius -- now, when I explained to him what this meant - he wanted to know what radius meant -- I said, that is as the crow flies and he said, I never heard of birds buying liquor. Any of you ever tried to explain to some people who really want a store, who have already been inspected and they say he has an ideal place for it but, because of this radius thing, he is not able to get it.

The last thing I would like to say is I guess these agency stores are allowed to sell liquor the same hours as they are allowed to sell beer, which is I guess nights and Sundays, etc. and I believe the only harm that this man would do by having an agency store is that he probably would effectively take care of the bootleggers in that area.

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

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

I have two areas in my district that, by radius, are in excess of ten miles from the state liquor store but, by road miles, are less than a half a mile. They are islands. There are no roads. The question is, currently those islands have the capability for an agency store -- if this bill passes, will it forever remove that capability if we are defining by road miles?

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

The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Members of the House: The language in the L.D. says that long distances shall be determined by the most reasonable direct route of travel. The road miles are not used in the bill.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representative GREENLAW: Mr. Speaker, Members of the House: This originally was my bill and I want to thank the Legal Affairs Committee for the time that they put on it. I would like to do away with the ten mile limit altogether so I guess I would have to say to my good friend from Island Falls, whether the crow walks into Island Falls or flies in, I probably don't have any feeling on it.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I guess the question was asked why they used radius to begin with -- I think for a very good reason, you could sit in the office and not go out -- send two men out and measure road miles, send them up to the county, pay them two days pay probably,

overnight, meals, you could sit in the office and determine the store would not be located there because it was within the ten mile radius. Take away the radius and they could get enough miles to place another store.

It seems to me what we are trying to do is get rid of the state operated stores and they are going to do this by taking away the radius because you can plan stores around a state store plus these agency stores around and then you are going to say -- hey, we don't need these state stores anymore. We can't justify having them. Do we want the state to control the liquor? I think we do. I think we ought to offer it for sale but we shouldn't push the sales.

It was interesting in the paper the other day -- "the Kremlin announces new effort to stamp out worker alcoholism" -- maybe could learn something from them.

Another headline: "The bureau will increase alcohol price" -- what are they going to do with it? They are going to funds programs to help those that have already been hooked on it and can't get off it. The number of families that have been destroyed because of alcohol and you know, back when they passed this bill on radius, the cars weren't any better than they are today, we can drive ten miles or twelve miles, I see no problem, so I hope you will support my amendment.

Representative Reeves of Pittston requested a roll call.

The SPEAKER: 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 Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: This is one more step in taking the control away from the state. I guess if you want this, then you will vote to kill my amendment; if you want the state to still have control, then I think you should go with my amendment.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, agree with Representative Smith that the state should have complete control of liquor in this state but I also do not agree with him on this amendment. What this bill is going to do is it is going to give us some seasonal stores and it is not going to entice anyone to drink anymore. It is just that some of the tourists coming into this state is going to be able to get their liquor, which they are going to get coming through New Hampshire anyhow, but if they know they can get it conveniently in Maine, they will buy it here. I feel if we do away with this 10 mile radius that we are bringing business into the state and in one case in particular that and that is from the York area to Portsmouth, New Hampshire.

The SPEAKER: The pending question before the House is the motion of the Representative from Pittston, Representative Reeves, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 79

YEAS:—Aliberti, Baker, H.R.; Begley, Bott, Brannigan, Callahan, Carroll, Carter, Cashman, Coles, Connolly, Cooper, Cote, Descoteaux, Diamond, Dillenback, Duffy, Farnum, Foss, Greenlaw, Gwadosky, Hale, Harper, Hayden, Hichborn, Higgins, H.C.; Hoglund, Ingraham, Jackson, Jalbert, Lacroix, Lawrence, Lebowitz, Manning, Martin, H.C.; McGowan, McPherson, McSweeney, Melendy, Michael, Mills, Mitchell,

Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nickerson, O'Gara, Paul, Perry, Priest, Racine, Reeves, Rioux, Roberts, Rolde, Rotondi, Rydell, Salsbury, Simpson, Soucy, Stevens, P.; Taylor, Telow, Theriault, Warren, Webster, Wentworth, Zirkilton.

NAYS:—Allen, Armstrong, Baker, A.L.; Bell, Bost, Boutilier, Bragg, Brodeur, Brown, A.K.; Brown, D.N.; Cahill, Carrier, Chonko, Clark, Conners, Crouse, Crowley, Daggett, Davis, Dellert, Dexter, Drinkwater, Erwin, Foster, Handy, Hepburn, Hickey, Higgins, L.M.; Hillock, Holloway, Kimball, Lander, Law, Lisnik, Lord, MacBride, Macomber, Masterman, Matthews, Mayo, McCollister, McHenry, Moholland, Paradis, E.J.; Parent, Pines, Randall, Rice, Richard, Ridley, Ruhlin, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Tammaro, Tardy, Walker, Weymouth, Whitcomb.

ABSENT:—Beaulieu, Bonney, Jacques, Joseph, Kane, Michaud, Nicholson, Paradis, P.E.; Pouliot, Vose, Willey, The Speaker.

71 having voted in the affirmative and 68 in the negative with 12 being absent, the motion did prevail.

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

(Off Record Remarks)

On motion of Representative O'Gara of Westbrook, adjourned until five o'clock in the afternoon pursuant to Joint Order (S.P. 596).