

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred and Twelfth
Legislature
OF THE
STATE OF MAINE

VOLUME I
SECOND REGULAR SESSION
January 8 - April 2, 1986

The House was called to order by the Speaker.
Prayer by Father Thomas J. Joyce, St. Mary's Catholic Church, Augusta.
National Anthem by the Edward Little High School Band, Auburn.
The Journal of Friday, March 14, 1986 was read and approved.
Quorum call was held.

PAPERS FROM THE SENATE

Unanimous Ought Not To Pass

Report of the Committee on Utilities reporting "Ought Not to Pass" on Bill "An Act to Require Closer Review of the Construction of Major Electrical Generating Projects" (S.P. 767) (L.D. 1944)

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

Unanimous Leave to Withdraw

Report of the Committee on Utilities reporting "Leave to Withdraw" on Bill "An Act to Review the New England Electric Power Agreement" (S.P. 703) (L.D. 1788)

Report of the Committee on Utilities reporting "Leave to Withdraw" on Bill "An Act Defining the Rights of Landlords, Tenants and Cable Television Operators" (S.P. 776) (L.D. 1950)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Increase the Cap on the Certificate of Need Development Account for Fiscal Year 1986-87" (S.P. 712) (L.D. 1837)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act Establishing Equal Revenue Calculations for all Maine Hospitals" (S.P. 812) (L.D. 2044)

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE
DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF ACCOUNTS AND CONTROL
STATE HOUSE STATION 14
AUGUSTA, MAINE 04333

To the President of the Senate and the Speaker of the House of Representatives

In accordance with Title 5, Maine Revised

Statutes Annotated, section 1547, the accompanying Financial Report of the State of Maine is submitted for the fiscal year ended June 30, 1985.

The first section of the report consists of the General Purpose Financial Statements for all funds reported in accordance with generally accepted accounting principles. Generally accepted accounting principles for the Governmental Funds uses the modified accrual basis of accounting. Revenues are recognized when they become measurable and available as current assets. Expenditures are generally recognized when the related funds liability is incurred. Exceptions to this general rule include accumulated unpaid vacation and sick leave and principal and interest on general long term debt which is recognized when due.

The second section is reported as it has been in the past, based upon the budgetary and legal requirements. Please refer to Note 7 of the General Notes to the Financial Statements for the reconciliation of the fund balances between the two sections. Comparative budgetary data and statistical information have also been included in this report to promote a better understanding of the State's finances.

Questions and comments about this report or any phase of state finances are always welcome.

Respectfully submitted,

S/Sandra J. Crockett
State Controller

Was read and with accompanying report ordered placed on file.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Aging, Retirement and Veterans

Bill "An Act Relating to Retirement Benefits for Confidential State Employees" (H.P. 1558) (L.D. 2197) (Presented by Speaker MARTIN of Eagle Lake) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)
Sent up for concurrence.

Business and Commerce

Bill "An Act to Establish the Maine Workers' Compensation Reinsurance Association" (H.P. 1560) (L.D. 2199) (Presented by Speaker MARTIN of Eagle Lake) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

(Ordered Printed)
Sent up for concurrence.

Education

Bill "An Act Relating to Driver Education for the Handicapped and Already Licensed Individuals" (H.P. 1562) (L.D. 2200) (Presented by Representative MICHAEL of Auburn) (Cosponsor: Senator ANDREWS of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)
Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Improve the Management of Maine's Forest Recreation Resource" (H.P. 1559) (L.D. 2198) (Presented by Representative JACQUES of Waterville) (Cosponsors: Representative LAW of Dover-Foxcroft and Senator KANY of Kennebec) (Submitted by the Department of Conservation pursuant to Joint Rule 24)

(Ordered Printed)
Sent up for concurrence.

ORDERS

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

ORDERED, that Representative Sally R. Rice of Stonington be excused March 14 for Legislative Business.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative MICHAUD from the Committee on Energy and Natural Resources on Bill "An Act to Permit State Regulation of Dam Impoundment Areas" (H.P. 1337) (L.D. 1874) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative COOPER from the Committee on Judiciary on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Legislature to Shorten the Terms of Office of Active Retired Judges (H.P. 1415) (L.D. 1999) reporting "Leave to Withdraw"

Representative MURPHY from the Committee on Legal Affairs on Bill "An Act Regarding the Integrity and Impartiality of Undercover Police Activity" (H.P. 1423) (L.D. 2012) reporting "Leave to Withdraw"

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

Refer to the Committee on Education

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds for Support of the Maine Teacher in Space Program" (H.P. 1518) (L.D. 2147) reporting that it be referred to the Committee on Education.

Report was read and accepted and the bill referred to the Committee on Education and sent up for concurrence.

Refer to the Committee on Education

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds for the Teacher of the Year Program" (H.P. 1517) (L.D. 2146) reporting that it be referred to the Committee on Education.

Report was read and accepted and the bill referred to the Committee on Education and sent up for concurrence.

Ought to Pass in New Draft

Representative MURPHY from the Committee on Legal Affairs on Bill "An Act Relating to Penobscot Nation Game Wardens" (H.P. 1194) (L.D. 1691) reporting "Ought to Pass" in New Draft (H.P. 1552) (L.D. 2190)

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

Ought to Pass in New Draft

Representative BROWN from the Committee on Education on Bill "An Act to Authorize the Use of Energy Service Companies and 3rd-party Financing for Conservation Improvements at School Administrative Units" (H.P. 1375) (L.D. 1938) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1553) (L.D. 2191)

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

Ought to Pass in New Draft

Representative CASHMAN from the Committee on

Taxation on Bill "An Act to Phase Out the Sales and Use Tax on Energy Used in Manufacturing" (H.P. 284) (L.D. 354) reporting "Ought to Pass" in New Draft (H.P. 1555) (L.D. 2193)

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

Ought to Pass in New Draft

Representative BRANNIGAN from the Committee on Business and Commerce on Bill "An Act Concerning the Labeling of Seafood" (H.P. 1293) (L.D. 1810) reporting "Ought to Pass" in New Draft (H.P. 1556) (L.D. 2194)

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

Ought to Pass in New Draft/New Title

Representative MURRAY from the Committee on Business and Commerce on Bill "An Act Establishing State Regulation of Employment Agencies" (H.P. 1191) (L.D. 1688) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Clarify the Regulation of Employment Agencies" (H.P. 1557) (L.D. 2195)

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

Ought to Pass in New Draft/New Title

Representative WARREN from the Committee on Legal Affairs on Bill "An Act to Allow Restaurants and other Establishments Licensed to Serve Alcoholic Beverages to Purchase these Beverages from Agency Liquor Stores" (H.P. 1358) (L.D. 1902) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Allowing Licensees to Purchase Liquor from Agency Liquor Stores if Licensee is Located more than 20 Miles from State Liquor Stores" (H.P. 1554) (L.D. 2192)

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

CONSENT CALENDAR

FIRST DAY

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

(H.P. 1331) (L.D. 1866) Bill "An Act to Provide for the Motor Vehicle Division to Purchase and

Maintain Software Equipment Independent of any Other Provider and Related Hardware" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-576)

(H.P. 1378) (L.D. 1941) Bill "An Act to Improve the Effectiveness of the Consumer Assistance Division of the Public Utilities Commission and to make Other Changes in the Statutes" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-577)

(S.P. 784) (L.D. 1969) Bill "An Act to Protect the Confidentiality of Certain Utility Employee Records" Committee on Utilities reporting "Ought to Pass"

(H.P. 1445) (L.D. 2039) Bill "An Act to Repeal the Maine Takeover Bid Disclosure Law" Committee on Business and Commerce reporting "Ought to Pass"

(H.P. 1488) (L.D. 2100) Bill "An Act Relating to the Age of Employees who may Receive Payment or be in the Direct Handling of Liquor on the Licensed Premises" Committee on Legal Affairs reporting "Ought to Pass"

(H.P. 1265) (L.D. 1774) Bill "An Act to Amend the Revised Maine Securities Act" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-578)

(H.P. 1329) (L.D. 1864) Bill "An Act to Encourage Employers to Assist their Employees in Meeting Their Child Care Needs and Expenses" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-579)

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

BILLS IN THE SECOND READING As Amended

LATER TODAY ASSIGNED

Bill "An Act to Bring into Conformity Municipal and State Subdivision Laws" (H.P. 872) (L.D. 1229) (C. "A" H-572)

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

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

PASSED TO BE ENACTED

An Act to Exempt Property Managers and Site Managers from the Licensing as Real Estate Brokers or Salesmen (S.P. 857) (L.D. 2160)

An Act to Expand and Continue Alcoholism Treatment, Education, Prevention and Research

Programs (H.P. 951) (L.D. 1370) (C. "A" H-532)

An Act to Clarify and Make Corrections in the Election Laws (H.P. 1284) (L.D. 1801) (H. "A" H-542; H. "A" H-569 to C. "A" H-537)

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.

ENACTOR

LATER TODAY ASSIGNED

An Act to Eliminate Exemptions from Jury Service (H.P. 1531) (L.D. 2158)

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

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

Representative FOSTER: Mr. Speaker, Men and Women of the House: When this bill first came out, I think most of us heard from our physicians and dentists. I just want to find out the legislative intent of this piece of legislation. I have talked to members of the committee and my understanding is a physician or dentist providing active patient care "shall" be excused. Now, if there was a period after excused, I would completely understand this bill. But it goes on to say "upon showing that jury duty by the physician or dentist would prove a threat to the health of a patient or patients" — that line leads me to wonder if this can be done by calling in or does the physician or dentist have to appear in front of the clerk or in front of the judge showing that this is a threat to the health of a patient? Could I ask someone on the committee to give me the legislative intent of this piece of legislation?

The SPEAKER: Representative Foster of Ellsworth has posed a question through the Chair to any member on the committee, who may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: I appreciate the question from the good Representative from Ellsworth because we are, in essence, creating the Legislative Record on this bill by our questions and answers this morning.

The intent of the committee was to word this bill as a New Draft so that any doctor or physician or dentist could either telephone or write to the court and explain to them briefly that serving on the jury would pose a threat to the health of a patient or patients, as the wording of the bill so designates.

I think we wanted to make it clear that there should be some volition on the part of the physician or dentist and not just assume that that person is exempted from jury service by virtue of their occupation. Too many times in the past, there are whole lists, as you can see in the original legislation, of many, many people being exempted from jury service and that kept narrowing down and it was unfair to have somebody go to court to be judged by a jury of their peers and only those peers were laborers and secretaries, that other people were being exempted automatically. So, our intent here is

to show that there are people, especially physicians and dentists who are providing daily care for patients, acute care in some instances, be exempted by writing a letter or by phoning the court and explaining to them that they do have an obligation or responsibility.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to ask another question or propose what I thought the intent was and that was that dentists and doctors that have an ongoing practice, not necessarily in acute care, but rather have ongoing practices. Is that correct? I will put that question to the good Representative from Augusta.

The SPEAKER: Representative Duffy of Bangor has posed a question through the Chair to the Representative from Augusta, Representative Paradis, who may respond if he so desires.

The Chair recognizes that Representative.

Representative PARADIS: Mr. Speaker, Men and Women of the House: In answer to the Representative from Bangor, I think the wording of the bill is clear, a physician or dentist providing active patient care. Now, you might want to use your own discretion. We do not want to define it so narrowly that there might be a contest as to what those words mean. "Active patient care" — if you have a patient load, if you have patients that come in that just need to have their teeth cleaned, you have others that come in with an abscessed tooth and you have an emergency situation, you have people being seen in a clinic, you have others that have emergency operations that are being done in hospitals, so "active patient care" can mean from A to Z on that but it is important that they contact the court because it is not an automatic excuse from jury duty because we believe this to be a necessity. It is one that they must ask for.

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

Representative HANDY: Mr. Speaker, I would like to pose a question to the Representative from Augusta.

My question is, if that physician or dentist writes that letter to the court, who makes that determination? Most importantly, is that letter from that physician accepted on its face value simply if the letter stated, I have active patient care and wish to be exempted. Is that accepted at face value? If that letter is written to the court, is that letter accepted flat?

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

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: The simple answer to your question is, yes. I think the basic intent of the committee, when we first redrafted the bill, we excluded from automatic exemption a number of people who had been previously exempt automatically. Those included, for instance, the Secretary and Treasurer of the State, all offices of the United States, Judges of Probate, physicians, surgeons, dentists, sheriffs, etc., etc. We narrowed that list because we felt, as a committee, that it be imperative that people who serve on the jury truly be a cross-section of the state. In doing that, the physicians and dentists

came to us and said, but what if we are actively caring for patients? We said, that is fine, you can be excused, you shall be excused, all you have to do is ask. What we intend is that those physicians and dentists who are retired will not automatically be excused from jury duty. Retired physicians and dentists will serve unless they go through the normal process that either you and I would have to go through. But, if you are in active patient care, you have office hours, you work at a clinic, you are a surgeon, you are at a hospital, whatever, all you do is write a letter, make a call and you "shall" be excused. You "shall" be.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: To pursue that just a little bit further -- although I am not a doctor or a dentist -- three weeks ago, I was drawn for the Traverse Jury. At the top of the sheet of paper, it said if you had any questions to call the Clerk of Courts or the Judge. I called the Clerk of Courts and she immediately said, "Oh, that is fine, we will cross your name right off the list." So, I think that perhaps would answer that question.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Carrier.

Representative CARRIER: Mr. Speaker, Members of the House: As a member of the Judiciary Committee, I would like to present to you a different view. After listening to testimony, I was the only one that was not in favor of the bill because of the fact that the physicians were not excluded. I didn't mind the dentists so much because I don't think, as a rule, there is that much of an emergency, and if there is, there is always somebody else available. But you might get an attack of appendicitis at two o'clock in the morning or you have one during the day and they say, we will operate tomorrow but we are on 24 hour call and if anything happens, go right in and we will operate at two, three, four, five, six o'clock in the morning. That was my concern with the physicians and it still is.

I am not worried too, too much about the retired physicians but I am about the physicians that are actually practicing -- if I was having a serious operation at five thirty in the morning, I would not want him hurrying so he could go to jury duty. I don't think that is fair. I don't think calling to be excused is fair either. Two jackets were drawn up and I was the one that was going to sign it "Ought Not to Pass" -- I mean physicians should be exempted because of their work dealing with emergencies, so it went on for a few days anyway, and like many other occasions, I stand alone, and I guess I got weak at one moment and I said, well let it go, hoping that somebody would put an amendment to exempt the physician.

I must say, truthfully, that at the time the bill came up, I had not heard from any physicians, especially in my area. I have heard from them a lot now. Now I really think that the physician should be excused and although I signed the report "Ought to Pass", if somebody puts that type of an amendment on, I will support it.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: I confess that I am somewhat

reluctant to get up and add another voice to probably far too many. I feel that it is important that the purpose of this bill is understood especially for those who are going to be participating in jury service.

The reason this bill is before you stems from the increasing number of exemptions that were coming before the Judiciary Committee during the last few years. We got to the point where even counselors were seeking to be exempt from jury duty because they felt that their services were too important to be interrupted by jury service. It was a feeling, I think, by most of the members of the committee that jury service is one of the most important things that any citizen can do and that there had to be a very good reason why people could not serve on juries to exempt them. We exempted for example, attorneys -- not that most attorneys wouldn't like to sit on juries -- but because the fear was that attorneys on a jury would tend to sway the juries too much. The same thing happened for judges, the same thing happened for sheriffs, because sheriffs essentially enforce bringing people in for jury duty if they were recalcitrant.

Physicians were a difficult subject and we had to work hard on that subject. I think it is important that you look at the bill so you know precisely what is exempt and what is not. We exempted a physician provided that the physician is in active patient care, that is not retired, and upon his showing that jury service poses a threat to the health of a patient or patients. An administrator for example, should serve just as a businessman should serve, just as anyone else should serve who is not exempted, even though that administrator may have an active practice. A dermatologist for example, who does not have a practice where his absence or her absence may be life-threatening, again, should serve if we feel that jury duty is important. I feel that most of us do feel that jury duty is very important. What this does is it keeps the normal provisions for exemptions for jury duty in place. The physician as, you have been told, will just have to write a letter in and say essentially that there is a life-threatening situation and why it is and I am sure that the exemption will be given. But it does not exempt people who are in basically no different situation than businessmen or auto mechanics or anyone else who has an ongoing life which has to be interrupted by a very important government service.

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

Representative RACINE: Mr. Speaker, Men and Women of the House: I have to sort of take exception with the last comment that was made. I don't know how many of you have been afflicted with bursitis. I have, I have had bursitis now since the month of November and believe me, when you have bursitis, it may not be life threatening but it is quite painful when you can't move your arm up or down and you are in a lot of pain. Rheumatologists are not that available, it took me a month and a half to be able to see one in the city of Portland, and I think that just because they do not perform life-threatening measures that they should be excluded from the exemption. I believe that all medical personnel, surgeons and dentists, and again I hate to speak against my good friend Bob Carrier, but when you have a toothache at night or in the afternoon, you want to go see a dentist and, if you are not a patient of

that particular dentist, you're going to have trouble getting in to see him. I think that dentists as well as physicians should be excluded with the exception of those that are retired from participating in jury duty.

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

PASSED TO BE ENACTED

An Act to Clarify the Confidentiality Provisions of the Maine Banking Code (H.P. 1532) (L.D. 2159)

An Act Relating to a New Registration Plate Issue (H.P. 1540) (L.D. 2171) (H. "A" H-568)

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 following matter, in the consideration of which the House was engaged at the time of adjournment Friday, March, 14, 1986; has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first matter of unfinished business:

An Act to Strip Crime of its Profit (S.P. 847) (L.D. 2139)

TABLED - March 13, 1986 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

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

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" in New Draft under New Title Bill "An Act Concerning the Railroad Excise Tax" (H.P. 1545) (L.D. 2182) - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-570) - Committee on Taxation on Bill "An Act to Extend for One Year the Long-term Operating Lease Provision of the Railroad Excise Tax" (H.P. 1398) (L.D. 1972)

TABLED - March 13, 1986 by Representative MAYO of Thomaston.

PENDING - Motion of same Representative to Accept the Majority "Ought to Pass" in New Draft under New Title Report.

On motion of Representative Cashman of Old Town, retabled pending the motion of Representative Mayo of Thomaston that the House accept the Majority "Ought to Pass" in New Draft under new Title Report and later today assigned.

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

An Act to Make Changes in the Reserve Fund for Municipal Water Departments and Quasi-municipal Water Districts (S.P. 649) (L.D. 1674) (C. "A" S-394)

TABLED - March 13, 1986 by Representative VOSE of Eastport.

PENDING - Passage to be Enacted.

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

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

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Fees Imposed on the Use of Hazardous Materials" (H.P. 1546) (L.D. 2183) - Minority (6) "Ought Not to Pass" - Committee on Energy and Natural Resources on Bill "An Act Concerning Fees Imposed on the Generation of Hazardous Waste" (H.P. 1241) (L.D. 1751)

TABLED - March 14, 1986 by Representative JACQUES of Waterville.

PENDING - Acceptance of Either Report.

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

Representative RIDLEY: Mr. Speaker, Men and Women of the House: I move we accept the Minority "Ought Not to Pass" Report.

This bill caused quite a lot of controversy down in the committee, which you can see by the way it came out divided. I would just like to point out some of the reasons why I went along with the "Ought Not to Pass" Report.

On the Hazardous Waste Funds, I would just like to give you some figures from back in 1982, as to the revenue and expenditures and the carry over. In 1982, for nine months, the revenue generated in that fund was \$74,086, and expenditures were \$10,305, with a carry over of \$63,781. This goes on through '83, '84, and '85, and there has been a substantial carry over in each year. In 1983, there was a \$45,000 carry over; in 1984, there was a \$96,000. In 1985 -- I'll give you a run-down on that. The revenue was \$200,115, and the expenditures were \$219,004 and the carry over was \$77,812. The argument was that they thought if they had a real big catastrophe that it would exhaust the funds in this account. I grant you that probably it would but I think that we can build all of our funds up looking for the worst. I am sure that if they did have a major catastrophe that it would get cleaned up and the money would be made available. This is another hoop I think that we are laying on industry. This would be the manufacturer of the generators of this waste that would have to pay this, and at this time, I think that they are carrying all that they can. They do pay into the one fund that goes into the federal level, but not on the state level.

Another question that arose was that, if an

individual trucker went to a generating plant to pick up a load, would the trucker be required to pay on this fee? This is all over 10,000 pounds. The way it is written right now there is a question as to whether he would or he wouldn't. The least amount of accidents and spills have been in this area, so I think in view of the carry over they have had, they haven't used the total amount of the funds on any particular case. I would like to have you go along with the Minority Report on this and hope that you would so vote.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I hope that you will not go with the Minority "Ought Not to Pass" Report and will support the Majority "Ought to Pass" Report on this particular item. This bill seeks to address two changes in the Hazardous Waste Fund. The reason the fund was created in 1981 was to provide emergency response in case of spills of toxic and hazardous substances and provide training for emergency response personnel. The fund, as it is presently constituted, is barely adequate to cover the costs that are placed on it every year. In fact, there is a small balance of \$50,000 to \$70,000 annually.

Secondly, the fund as it was initially established taxed generators of hazardous waste, not the users of hazardous materials and, as it turns out, only about 20 per cent of the accidents involve hazardous waste. Most of the accidents involve hazardous materials which are the clean side of the operation, and those people don't pay anything, so what the bill would do is take the burden off from those persons who really aren't causing the bulk of the problem and put it on those who are.

I would like to read to the members of the House an article that I clipped from the Portland Press Herald on last Tuesday, March 11, 1986, datelined Washington, D.C. -- Associated Press. The headline says "Toxic Emergency Response Seems Poor. Three-fourths of the nation's police and firemen are inadequately trained to respond to accidents involving transportation of hazardous materials, a new Congressional study says. And even if trained teams reach scenes of a ruptured tank truck, improper labeling of the vehicle's contents can produce a wrong, dangerous response, the Office of Technology Assessment said in a study released Monday. The Office of Technology Assessment quoted state officials as saying that from 25 to 50 per cent of the identification placards required on hazardous material shipments are incorrect and that shipment documents are sometimes incomplete or inaccessible."

Then the article continues, "The Office of Technology and Assessment said that the most pressing need is to develop better ways of training safety personnel to handle accidents involving the 500,000 daily shipments of hazardous materials on the U.S. highway and rail lines and waterways. Three-quarters of the first responders are not adequately trained to deal with hazardous substances, Ms. Page, an official at the Office, told a news briefing. She said that a joke among response personnel is that you bring your tennis shoes and binoculars to a toxic or nuclear spill, using the shoes to get quickly away to a safe distance and the binoculars to read the placard."

This is a very, very serious issue. On the highways and rails of this state, there are lots of very, very toxic chemicals carried around every day.

Just this year, there was an accident on the railroad line that runs between the State House and the Kennebec River. There have been two accidents in the city of Waterville in which chlorine tank cars have derailed from the railroad. This is a real danger and I don't think that the people of this state want us pinching pennies when it comes to providing emergency response for this kind of operation. I think what they want is a good program, a program that is going to be effective when their lives are endangered.

I think it is our responsibility to go out and pass the Majority Report and raise a modest amount of money to fund this program and to take that money from the people who are causing the problem, and benefiting from the transport of these hazardous substances.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: I think what we have here is a "what if" situation. I can remember reading bedtime stories to my seven children and one of them was Chicken Little. Well, Chicken Little got hit on the head with an acorn, and so far, Chicken Little hasn't even been hit on the head and he is running around. Just for a rather simplistic analogy, let's assume that Representative Jacques has me by the throat and is choking me to death. We're going to tell him to ease off a little bit but he's still choking me just the same and I'll eventually go.

Another thing, I just learned this morning that New Jersey passed a similar law and the U.S. Court struck it down as unconstitutional. I say, let's stay with the Minority "Ought Not to Pass".

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

Representative COLES: Mr. Speaker, Men and Women of the House: I would like to reiterate a couple of simple points about this bill, the reason why I believe the majority went along with it. One is, that at present as Representative Mitchell just described, the people who generate hazardous waste are subsidizing the people who use hazardous materials. I don't believe that such a cross-subsidy is fair, this bill would help to eliminate it.

Secondly, the Hazardous Waste Fund pays for, among other things besides emergencies, the ongoing staff to administer the program. This year we added a new position to help small waste generators to dispose of their waste. A number of you may have heard from people in your district about how to get rid of a few gallons of chemicals of this or that. This new position will help them do that as well as put into full force in effect a manifest tracking system which is essential for the whole hazardous waste transportation business to be controlled. With this additional position, if this bill is not passed, the fund will go bankrupt within a year.

The third thing we did this year was to reduce the overall cap on the fund from \$600,000 to \$300,000. This was done because the committee felt there was no need for \$600,000, and that \$300,000 will give us better assurance that unnecessary money would not be spent. So this bill, at once, funds the existing program, reduces the cross-subsidy between businesses that is going on right now, and also adds a practical item, a budget control to the program.

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

Brown.

Representative BROWN: Mr. Speaker, Men and Women of the House: I also urge you to support the Minority Report. I would just like to respond briefly to some of the comments that have been made relative to certain businesses subsidizing other businesses. State government, the bureaucracy in particular, when it has a desire for more money and more positions, has perhaps the most creative way I have ever seen of coming up with those revenues.

What we are talking about here is a Hazardous Waste Fund, but in order for them to generate the kind of money they think that they need to hire more people to do the job they think isn't being done, they are not dealing with the waste issue itself, they are dealing with what they are calling the hazardous raw materials. I am referring to five new chemicals that aren't presently being taxed or having fees imposed on them currently. Some of our agencies don't like to see anything go untaxed or without a fee. They came up with this list of five brand new chemicals and what they are doing, they are imposing a fee on the companies that are using these chemicals. The chemicals are ammonia, chlorine, hydrochloric acid, sodium hydroxide, and sulfuric acid. Now they are imposing the fees on the companies that are accepting these chemicals or these raw materials, and in looking at the companies that are accepting these kinds of chemicals, we are looking at companies like the major paper companies like the Great Northern Paper Company for example.

During the conduction of the public hearing and the work sessions and so forth, it came out loud and clear that these companies are really the ones that are providing their own response teams for the purpose of dealing with hazardous waste and spills. The DEP even admitted that some of the larger companies, the ones that are going to be paying these fees, are already doing the job on their own with some oversight of course, from the DEP.

The waste fund was established, as everybody knows, in case there was an accident out here somewhere on a site, on the road, off a railroad, whatever the situation might be, that there would be an opportunity for a team from the DEP to come and take care of that situation and to clean it up; that is why it is established. But again, the companies who are going to be forced to pay these fees are the ones already doing the job that the fund was initially created to do.

I think that Representative Ridley is right on target, he described to you the kind of situation that the fund is in at the present time. True, last year they had a net loss of \$18,000, but they also had a reserve carry over of \$77,000 and that reserve carry over, as Representative Ridley explained, has been in the positive figures ever since the inception of the fund. The feeling of many members of the committee was that we were not in the kind of situation right now that required the addition of new personnel for the DEP nor did it require new fees to take care of something that we felt, many of us felt, was already being taken care of and not in a dangerous kind of mode. Again, look at the figures Representative Ridley has outlined and consider the fact that these fees are going to be imposed on businesses that are already taking care of the problem themselves. I think that we're just clobbering the businesses in this state, I think we're clobbering it so bad that one morning we're

going to wake up and we're going to be very, very sorry.

I urge you to support the Minority Report.

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

Representative HILLOCK: Mr. Speaker, Men and Women of the House: I am glad this bill came up today because it's coincidental that I met with a plant manager of a very large employer in the York County area, in the Biddeford Industrial Park. The topic of conversation was, how do we bring more jobs to the State of Maine, and what can we do to promote that. He brought up some of the problems that he had since he brought that plant into Maine from New York. One of them dealt directly with the issue that we are working with today; the Chemical Identification Law, hazardous material, and hazardous waste -- because of that law, a majority of the chemicals he was using, due to the red tape, were reverted to being identified as hazardous waste. A very large majority of that material was not hazardous waste, these chemicals, which is one of them we are dealing with here today, was diluted in his process as an alternative to disposing of it as hazardous waste. This company sought out another company that uses this material in the manufacturing process as a hazardous material and after they are done with it, process it as a hazardous waste.

Because of our legislation, we have stopped this re-manufacturing process, this material can no longer be reused again, the cost is skyrocketing, and this is what CEOs outside of the State of Maine look at as an attitude to the responsiveness to industrial problems. I hope that we don't add to this attitude.

I hope we can support the Minority Report that Representative Ridley has proposed to us and defeat this.

Representative Rolde of York requested the Committee Report be read.

Subsequently, the Committee Reports were read by the Clerk.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Ridley of Shapleigh 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.

Representative Mitchell of Freeport requested a roll call.

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

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

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Before we have the roll call, I would just like to make a few more remarks about this issue. The surplus that Representative Ridley and Representative Brown referred to was a result of the fact that there was a six month lapse between the creation of the fund and the beginning of the program to address these hazardous waste spills. There has been a slight surplus from year to year. This is a

very serious matter and a serious accident can cost a great deal of money and it's not a hypothetical situation and it's not a "what if" situation Representative Dexter.

In fact, it's my understanding this morning that a gasoline tanker is off the Interstate 95 near the Broadway exit in Bangor, Maine and there was gasoline spilled and that is potentially very expensive. There have been two chlorine tank trucks that have derailed in this state and if one of those tankers should derail, it would cost millions and millions of dollars just to evacuate the people who live near the site, just to survive the leak. I think we have a responsibility to protect the public health and a responsibility to provide resources for important programs.

I urge you to vote for the Majority "Ought to Pass" Report.

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

Representative BROWN: Mr. Speaker, Men and Women of the House: I just have to address that surplus issue. Representative Mitchell points out it is a slight surplus and he gave us the reasons why it is there. I don't really care why it is there -- it is there and it has been there for four years. There is nothing that tells me because of that six month lapse in 1982 that it is not going to continue. When we talk about slight surplus folks, we're talking about \$77,000 reserved carry over for the year 1985. That's more than 35 per cent of the total expenditures. That is not a slight surplus. If that were my business, I would be rather pleased.

The SPEAKER: The pending question before the House is the motion of Representative Ridley of Shapleigh to accept the Minority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Eastport, Representative Vose.

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

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

100 having voted in the affirmative and 36 in the negative with 13 being absent and 2 paired, the motion did prevail.

(See Roll Call No. 255)

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

Representative COLES: Mr. Speaker, Men and Women of the House: I move that the House reconsider its action whereby the House voted to accept the Minority "Ought Not to Pass" Report and further move that this item be tabled until later in today's session.

Representative Dexter of Kingfield requested a vote on the tabling motion.

The SPEAKER: The pending motion before the House is the motion of Representative Coles of Harpswell to table this matter until later in today's session. Those in favor will vote yes; those opposed will vote

no.

48 having voted in the affirmative and 88 in the negative, the motion did not prevail.

The SPEAKER: The pending question before the House is the motion of Representative Coles of Harpswell that the House reconsider its action whereby the House accepted the Minority "Ought Not to Pass" Report.

A viva voce vote being taken, the motion did not prevail.

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

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Reported Pursuant to the Statutes

Representative ROLDE from the Committee on Audit and Program Review, pursuant to Maine Revised Statutes Annotated, Title 3, chapter 23 ask leave to submit its findings and report that the accompanying Bill "An Act to Provide Funds for the Continued Operation of the State Emergency Medical Services Program" (Emergency) (H.P. 1561) (L.D. 2201) be referred to the Joint Standing Committee on Audit and Program Review for Public Hearing and printed pursuant to Joint Rule 18.

Report was read.

On motion of Representative Carter of Winslow, referred to the Committee on Appropriations and Financial Affairs, Ordered Printed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative GWADOSKY from the Committee on State Government on Bill "An Act Relating to State Personnel Law" (H.P. 1409) (L.D. 1989) reporting "Leave to Withdraw"

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

Representative Hale of Sanford was granted unanimous consent to address the House:

Representative HALE: Mr. Speaker, Men and Women of the House: It came to my attention and the attention of Representatives Ridley, Hall, Farnum and Murphy that the Department of Labor had decided to close the Sanford office along with Madawaska. The first time we heard about it was not from

Commissioner Pat McDonough but through the newspapers. We question the closing and whether actual savings will result. Having talked with Commissioner McDonough, she has told me there may be additional closings in Waterville and the Machias office and possible staff reductions in Skowhegan and Rumford areas as well as Millinocket. I would think that a move as drastic as this would have some legislative oversight prior to that decision. That is why I am bringing this issue to the members of the House today.

Sanford's unemployment average is higher than the state average because of the closing of Computer Vision where 500 people were laid off; Nike Shoe Inc., where another 300 people lost their jobs, as well as Sprague Electric and three other shoe factories closing in our area. Because this office serves a wide range of people and because of the recent layoffs, closing of the office at this time is an especially important issue in my area. I would ask that the Commissioner report to the legislators before such drastic moves are accomplished.

(Off Record Remarks)

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

On motion of Representative Martin of Van Buren,
Recessed until four o'clock in the afternoon.

(After Recess)

The House was called to Order by the Speaker.

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

PAPERS FROM THE SENATE

The following Communication:

The Senate of Maine
Augusta

March 17, 1986

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today adhered to its former action whereby it accepted the Majority Ought Not to Pass Report on the Bill "An Act to Amend the Requirement that All Part-time Law Enforcement Officers be Trained by the Maine Criminal Justice Academy" (S.P. 798) (L.D. 2005).

Sincerely,

S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Reorganize the Maine Potato Industry" (S.P. 876) (L.D. 2205)

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

Was referred to the Committee on Agriculture in concurrence.

Bill "An Act Concerning the Job Development Training Fund" (S.P. 874) (L.D. 2204)

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

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

Bill "An Act to Place a Sunset Provision in the Antlerless Deer Permit Law" (S.P. 873) (L.D. 2203)

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

Was referred to the Committee on Fisheries and Wildlife in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Business and Commerce reporting "Leave to Withdraw" on Bill "An Act to Establish Standards for Public Employers for Approval as Workers' Compensation Self-insurers" (S.P. 745) (L.D. 1909)

Report of the Committee on State Government reporting "Leave to Withdraw" on Resolve, Concerning the Transfer of State-owned Land to Hope House, Incorporated (S.P. 775) (L.D. 1947)

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

Ought to Pass in New Draft/New Title

Report of the Committee on Education on Bill "An Act to Allow Local School Authorities to Establish a Date Certain for High School Graduation up to 7 Academic Days Prior to the Conclusion of the School Year" (S.P. 764) (L.D. 1936) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide for High School Graduation up to 5 Academic Days Prior to the Conclusion of the School Year" (Emergency) (S.P. 868) (L.D. 2184).

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

Report was read and accepted, the New Draft given its first reading and assigned for second reading Tuesday, March 18, 1986.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Appropriations and Financial Affairs

Bill "An Act to Implement Certain Recommendations of the State Compensation Commission" (H.P. 1567) (Submitted by the State Compensation Commission pursuant to the Maine Revised Statutes Annotated, Title 3, section 2-A)

Bill "An Act to Provide Funds for Graduate Study for the Protection, Preservation and Perpetuation of the Bee Industry in Maine" (H.P. 1568) (Presented by Representative McCOLLISTER of Canton) (Cosponsors: Senator BROWN of Washington, Representatives VOSE of Eastport, and CONNERS of Franklin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)
Sent up for concurrence.

Education

Bill "An Act to Provide Technical Assistance to Schools on Truancy, Dropouts and Alternative Educational Programs and to Amend the Permanent School Fund" (H.P. 1569) (Presented by Representative NELSON of Portland) (Cosponsors: Senator BROWN of Washington, Representatives LAWRENCE of Parsonsfield, and CONNOLLY of Portland) (Submitted by the Department of Educational and Cultural Services pursuant to Joint Rule 24)

(Ordered Printed)
Sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act to Improve Legislative Oversight of

the Bureau of Public Lands and to Create the Maine Conservation Heritage Trust Fund" (H.P. 1570) (Presented by Representative MITCHELL of Freeport) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26)

(The Committee on Energy and Natural Resources was suggested)

(Ordered printed)
Sent up for concurrence.

Human Resources

Bill "An Act to Amend the Annual Operating-under-the-influence Report and to Establish a State-operated Evaluation Program within the Driver Education Program of the Department of Human Services" (H.P. 1571) (Presented by Representative ROLDE of York) (Cosponsors: Representatives McGOWAN of Canaan, JACQUES of Waterville, and CLARK of Millinocket) (Submitted by the Department of Human Services pursuant to Joint Rule 24)

(Ordered Printed)
Sent up for concurrence.

Local and County Government

RESOLVE, Ratifying Washington County's Use of Unappropriated Surplus to Pay Deficits (Emergency) (H.P. 1572) (Presented by Representative VOSE of Eastport) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)
Sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative COOPER from the Committee on Judiciary on Bill "An Act Concerning Substance Abuse Education" (H.P. 1188) (L.D. 1685) reporting "Leave to Withdraw"

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

Divided Report

TABLED AND ASSIGNED

Majority Report of the Committee on State Government reporting "Ought to Pass" on Bill "An Act to Place in the Unclassified Service 3 Utility Accountant III Positions at the Public Utilities Commission" (H.P. 1437) (L.D. 2028)

Signed:

Senators: ANDREWS of Cumberland
KERRY of York

Representatives: GWADOSKY of Fairfield
DILLENBACK of Cumberland
COTE of Auburn
DESCOTEAUX of Biddeford
NADEAU of Saco
BOUTILIER of Lewiston
HICHBORN of LaGrange
WENTWORTH of Wells

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

Signed:

Senator: HICHENS of York

Representatives: SPROUL of Augusta
LACROIX of Oakland

Reports were read.

Representative Gwadosky of Fairfield moved acceptance of the Majority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" Report and tomorrow assigned

CONSENT CALENDAR

SECOND DAY

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

(H.P. 1331) (L.D. 1866) Bill "An Act to Provide for the Motor Vehicle Division to Purchase and Maintain Software Equipment Independent of any Other Provider and Related Hardware" (C. "A" H-576)

(H.P. 1378) (L.D. 1941) Bill "An Act to Improve the Effectiveness of the Consumer Assistance Division of the Public Utilities Commission and to make Other Changes in the Statutes" (C. "A" H-577)

(S.P. 784) (L.D. 1969) Bill "An Act to Protect the Confidentiality of Certain Utility Employee Records"

(H.P. 1445) (L.D. 2039) Bill "An Act to Repeal the Maine Takeover Bid Disclosure Law"

(H.P. 1488) (L.D. 2100) Bill "An Act Relating to the Age of Employees who may Receive Payment or be in the Direct Handling of Liquor on the Licensed Premises"

(H.P. 1265) (L.D. 1774) Bill "An Act to Amend the Revised Maine Securities Act" (C. "A" H-578)

(H.P. 1329) (L.D. 1864) Bill "An Act to Encourage Employers to Assist their Employees in Meeting Their Child Care Needs and Expenses" (C. "A" H-579)

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

PASSED TO BE ENGROSSED

Bill "An Act Relating to Penobscot Nation Game Wardsens" (H.P. 1552) (L.D. 2190)

Bill "An Act to Authorize the Use of Energy Service Companies and 3rd-party Financing for Conservation Improvements at School Administrative Units" (Emergency) (H.P. 1553) (L.D. 2191)

Bill "An Act to Phase Out the Sales and Use Tax on Energy Used in Manufacturing" (H.P. 1555) (L.D. 2193)

Bill "An Act Concerning the Labeling of Seafood" (H.P. 1556) (L.D. 2194)

Bill "An Act to Clarify the Regulation of Employment Agencies" (H.P. 1557) (L.D. 2195)

Bill "An Act Allowing Licensees to Purchase Liquor from Agency Liquor Stores if Licensee is Located more than 20 Miles from State Liquor Stores" (H.P. 1554) (L.D. 2192)

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Allow the Freeport Sewer District to Acquire the Freeport Branch of the Maine Water Company (S.P. 763) (L.D. 1927) (C. "A" S-404)

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 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Establish a Toll-free Statewide Hot Line for Victims of Sexual Assault and Domestic Violence (S.P. 796) (L.D. 2003) (C. "A" S-407)

An Act to Revise the Statutes Pertaining to Use and Sale of Live Fish as Bait (S.P. 858) (L.D. 2169) (H. "A" H-574)

An Act to Extend the Judicial Certification Procedures to Institutions Housing Mentally Retarded

Persons (S.P. 864) (L.D. 2178)

An Act to Strengthen State-local Cooperation through Regional Councils (H.P. 837) (L.D. 1181) (S. "A" S-409 to C. "A" H-558)

An Act to Promote Intensive Spruce-fir Management (H.P. 1468) (L.D. 2070) (H. "A" H-571)

An Act Concerning State Contribution to Pollution Abatement (H.P. 1469) (L.D. 2071) (H. "A" H-540 and S. "A" S-389)

An Act to Exempt Certain Firefighters from the 3-year Statute of Limitations in the Occupational Disease Law (H.P. 1533) (L.D. 2161)

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

The Chair laid before the House the following matter: Bill "An Act to Bring into Conformity Municipal and State Subdivision Laws" (H.P. 872) (L.D. 1229) (C. "A" H-572) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

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

The Chair laid before the House the following matter: An Act to Eliminate Exemptions from Jury Service (H.P. 1531) (L.D. 2158) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Handy of Lewiston, under suspension of the rules, the House reconsidered its action whereby L.D. 2158 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-581) and moved its adoption.

House Amendment "A" (H-581) was read by the Clerk.

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

Representative HANDY: Mr. Speaker, Members of the House: The amendment before you today simply removes or rather, exempts, physicians and dentists who are providing active patient care from jury duty.

Earlier today, we heard discussion about the legislation we have before us where the physician or dentist had to contact the court in some manner and tell the court that they wished to be excused. This bill would eliminate that process and they would be excused without having to show why they should be excused. It is fine to say that everyone, regardless of their wealth or professional position, should perform jury duty, and I agree with that except in instances when it comes to a person's health or sickness or it comes to a matter of life or death.

This amendment deals with the practical human element here affected by this bill. By exempting a physician or dentist in active patient care, we are being sensitive to the people, the people who must rely on these professionals. If someone has undergone surgery for example, and sometime later

complications develop, it is of paramount importance that that physician, who has attended that person during that operation, follow up directly in addressing that case, and not be tied up in jury duties. I'm sure that when any of us go to a doctor for the first time, there is a little bit of nervousness, and in fact, a lot of nervousness. I view that as just part of the process in building up confidence in a physician. That's important and that goes along with getting a doctor and building up that trust. The more we go to a physician, the more we build up trust in that physician. It's important that we have a physician where we can develop, consistent and continuing health care by a trusted, tried and true physician that we believe in and that we're willing to put our lives into their hands.

Let's not put our physicians in the position of having to place a phone call or write a letter to the court asking to be excused from jury duty. There are many ways we perform good citizen activities in our country and our state and I think jury duty is one of them, but also being a good physician and being available is quite another.

I reviewed the Health Planning Report of last year and there were twenty-three underserved areas in primary health care. Twenty-three areas where there are shortages in this state -- areas like Bethel, Eastport, Ashland, and Albion to name a few. I am sure that those people in that area want to be able to depend on their physician being right there and available, not having to call up and say, I've got this problem and find out that the doctor is having to serve on jury duty.

So, I would urge you today to adopt this amendment that I present before you.

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

Representative KANE: Mr. Speaker, Men and Women of the House: For the life of me, I cannot figure out why this amendment is being offered. In my eight years, I have heard lots of red herrings, but the remarks you have just heard -- there were so many red herrings thrown together in a long row, you have to call it the "Crimson Tide". I have never heard anything like it in my life.

The first thing I would like to remind you that this was a Unanimous Committee Report, unanimous -- all Senators, all Representatives, all Republicans, all Democrats.

There was some confusion on the floor this morning because Representative Priest misspoke and said it was in life-threatening situations. He was on his way up and had the microphone on up to correct himself when the bill was tabled. He figured that rather than fight the tabling motion to explain himself, he would do it later and he asked me to apologize for not being able to be here this afternoon.

The fact is that the current bill which is supported by the Maine Medical Association, which is supported by the Dentists Association in their recognition of the fact that people have an obligation and of the fact that people in that particularly delicate situation of being a physician or a dentist, are taken care of very well in this bill. You ought to give the committee a little credit. We worked on this bill for quite a while and were very careful about it.

I am quoting from the bill now -- "A physician or

dentist providing active patient care shall be excused upon showing that jury service by the physician or dentist would pose a threat to the health to a patient or patients." That is a very, very loose standard. I think that a doctor is going to be able to meet that very easily. I think a dentist is going to meet that very easily.

There are people in this body who have great experience in courtrooms and I hope they might get up and tell you that in virtually every instance the judge will excuse the juror. The difference is between exemption and being excused. The fact is now, under current law and under the proposed amendment, it's just a straight exemption if you are a DO or an MD for the rest of your life and, under current law, there are other problems. Anyone who is a counselor is exempt -- well we don't know, what is a counselor? No one has defined a counselor, so that is why we changed the current law into the bill before you and why I think the amendment is so flawed. For example, who is to define active patient care? I think we really have a responsibility to give a better standard to the courts. The fact is, if a person is an MD or a DO or a DMD, and that person is retired and lives fifteen or twenty years after retirement, those people really ought to be called for jury duty for two reasons.

One is that it is a civic obligation on the part of people to serve as jurors and the other is that that man or woman in the dark deserves a jury of his or her peers. That doesn't mean just people who are citizens of the State of Maine who do not have doctorates of one sort or another. Some of these are some of the most highly qualified, most intelligent members of our society and would contribute very valuably to a jury.

The only other thing I would try to remind you about is that it is a Unanimous Committee Report. The language was not chosen sloppily, I regret that the confusion did exist this morning. Just to underline it for the future of any court trying to look into this body's legislative intent on this issue, I can say as Chairman of the House Judiciary Committee that Representative Priest misspoke himself when he referred to life-threatening situations. That was not the intent of the committee, it is not reflected in the bill and, when this bill passes, that should not be regarded as to the intent of this legislature.

The SPEAKER: The Chair recognizes the Representative from Canton, Representative McCollister.

Representative MCCOLLISTER: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair. My primary health care comes from a chiropractic doctor. Will they have the same exclusion?

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

The SPEAKER: The Chair recognizes the Representative from So. Portland, Representative Kane.

Representative KANE: Mr. Speaker, Men and Women of the House: To tell you the truth, I don't actually know if chiropractors are in there or not. I hate to give you an incomplete answer. I would move to indefinitely postpone this amendment.

On further motion of the same Representative, tabled pending his motion that House Amendment "A" be

indefinitely postponed and later today assigned.

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" in New Draft under New Title Bill "An Act Concerning the Railroad Excise Tax" (H.P. 1545) (L.D. 2182) - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-570) - Committee on Taxation on Bill "An Act to Extend for One Year the Long-term Operating Lease Provision of the Railroad Excise Tax" (H.P. 1398) (L.D. 1972) which was tabled earlier in the day and later today assigned pending the motion of Representative Mayo of Thomaston that the House accept the Majority "Ought to Pass" in New Draft under New Title Report.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: The basic difference between the two reports out of the Taxation Committee are how the two reports treat a current provision in Maine Tax Law that deals with leased boxcars.

I am going to try and make this as brief as possible because the Railroad Excise Tax is a very complicated tax. Under the current law, the tax provides for two calculations to arrive at the amount of money that is owed by a railroad to the state. Currently there is a provision in the law on leased boxcars that provides for the amount of money being spent for leased box cars to be included in both calculations and, in effect, reduce the railroads tax twice. It allows for the money being spent for leased boxcars to be both expensed as an expense to the railroad and to be capitalized as an investment by the railroad. That is a very peculiar way to treat that. It is not normally the case in accounting or in other tax policy to provide for a double deduction for the same expense and, in essence, that is what we are doing. That provision has been in Maine tax law since 1979, it was put in there on a one year sunset and the sunset has been extended every year since 1979.

The Minority Report would recommend extending the sunset for one more year and the Majority Report does away with this rather peculiar situation where we are allowing leased boxcars to be deducted essentially twice. I think the provision ought to be eliminated because it does not make sense to treat leased items as expenses and also as a capital investment. It would make more sense to provide the same total benefit to railroads in general by reducing the basic sliding scale rates to result in the same total amount of excise tax collected from the railroads. That is what the Majority Report does. The sliding scale that is used to arrive at net operating income would be lowered under the Majority Report to essentially benefit all railroads. The leased boxcar provision has historically benefited only one railroad. That doesn't seem to be a very even way to treat the railroad industry and I would urge you all to accept the Majority Report and do away with this provision in law which probably should have never been enacted.

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

Representative BEAULIEU: Mr. Speaker, Men and Women of the House: I would like to pose a question

to the Chairman of the Taxation Committee.

I would like to ask — who are the railroads that are going to benefit under the Majority Report and who are the railroads that are going to benefit under the Minority Report and how much money are we talking about under either report?

The SPEAKER: The Representative from Portland, Representative Beaulieu, has posed a question through the Chair to the Representative from Old Town, Representative Cashman, who may respond if he so desires. The Chair recognizes that Representative.

Representative CASHMAN: The Minority Report carries a \$300,000 fiscal note. Essentially, that fiscal note results from the extension of the dual deduction for leased boxcars. Primarily, that would only benefit one railroad.

The Majority Report would be even treatment of all railroads. The fiscal note is \$100,000 and that would be pretty much split between the five railroads that operate in the state. The Minority Report is for the benefit of one. The provision in law as it currently exists would only benefit one railroad, Maine Central.

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

Representative BEAULIEU: Mr. Speaker, Men and Women of the House: I would like to pose another question. I would like a further explanation on how this is a dual benefit to Maine Central Railroad and why is it that this benefit is given with no strings attached? For example, what assurances do we have that the dollars given to Maine Central or B&A or any other railroad, are utilized in Maine?

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

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

Representative JACKSON: Mr. Speaker, Men and Women of the House: I rise with a little bit of trepidation this afternoon because of my position on the report that is before you, the Minority Report. It has become apparent that there is a problem with the rail industry in this state. It also is apparent from the line of questions that are being asked this afternoon, I felt that I should respond. I am going to respond by asking all the members of this body this afternoon to support the Majority "Ought to Pass" Report. Why am I going to ask you to support the Majority "Ought to Pass" Report? I am going to ask you to support that position for the mere fact that there is only one railroad which this is aimed to support and that railroad is Maine Central Railroad. That company does provide rail transportation to this state, rail transportation which is much needed. I certainly can understand their position as well as I can understand labor's position on the other side.

It is apparent, if you take a look at the tax filings with the Department of Taxation, that this leased boxcar provision is actually of no benefit to Maine Central Railroad because they don't qualify for it. They already pay the minimum tax irregardless and would pay the minimum tax irregardless of the provision. So the question is, how should we deal with the rail transportation industry in this state? This leased boxcar provision, the extension of that provision, was a recommendation of the Governor's Task Force on Rail Transportation in this state.

It was evident to me that if we are going to

encourage these companies that are operating within this state, irregardless of who they are, that there ought to be some incentive for them to make the investments necessary to provide that components of transportation which is known as the rail industry to bring it up to date and to make it as cost effective as possible in assisting the transportation industry in this state.

So, I stand here this afternoon as a signer of the Minority Report asking you people to support the Majority Report because I feel that it is extremely important that we address some part of the rail transportation industry this year. This is a result of a joint study directed by the legislature for the Taxation Committee to arrive at some relief, whether it be the leased boxcar provision or whether it be the reduction of the railroad excise tax or whether it be an increase on the return of investment on the investment factor. I think that this afternoon the motion before us is appropriate and I would hope we would vote in that manner.

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

Representative BEAULIEU: Mr. Speaker, Men and Women of the House: I feel very uncomfortable in supporting this measure. I think you should know that approximately three and a half years ago I had never heard of Maine Central coming before the legislature asking for any great assistance. I had never heard of any employee problems brought to the attention of any of us in the labor movement. At that point in time, because of serious concerns, recognizing that the railroad industry was in trouble in our state, recognizing that we need, not only trucking, but we need railroads, decent railroad transportation, to make our state work into assisting the economic development. I was in the forefront of circulating a petition at the Democratic Convention in Lewiston, step number one, calling for a long range study of what we needed for transportation in the State of Maine. I was also very active in urging the Governor to put together a task force to look at the issue. He did that. I participated as part of that task force. I was not on the task force but I sent three or four communications to the task force with some very specific questions that were never answered by the task force. I know that the Transportation Committee itself has made an effort to study and look at the issue of what is needed to keep railroads a viable industry in our state. I even kept my mouth shut on the bond issue that was passed last year. I was uncomfortable with it, didn't like it, but I knew that it was important to the Washington County people and I held back and I didn't support probably as strongly as I could have the defeat of that bond issue.

I think it is important for all of us to remember that when that bond issue did pass, there was quite a tax break given to the railroads in Maine, a good portion of that was given to Maine Central Railroad. There is no evidence to this day that any of those dollars were ever utilized in the State of Maine to upgrade equipment, railbeds, rails or anything else. As a matter of fact, if you read the papers, and I don't care what side you are on, management or labor, you will note that since that tax break occurred, there has been nothing but distress to the Maine railroad employees and facilities. The facilities that used to be in Portland are in Billerica, Massachusetts. Some of the jobs that were located in

the greater Portland area -- they were told, you come to Massachusetts with us or you are out of a job. There has been nothing but continual layoffs of people, closing down of facilities and I think the time has come for somebody to ask, what are they planning to do with this tax break money? Are we giving them travelers checks directly to Billerica, Massachusetts? Are we asking our laid off and furloughed railroad workers to put in their hard earned tax dollars into supporting a company that is doing nothing but distressing their jobs? I wonder how many of you know that a Maine laid off worker, at the rate of pay that railroad workers are making if they are at the top of their scale, could collect \$141 a week out of the State Unemployment Compensation Fund. These people are only eligible for \$125 and then they pay a portion of their own unemployment costs.

I feel strongly that maybe the time has come to look at this whole issue again, through another study committee, and if that is not possible, I am totally against giving another tax break with no strings.

When we gave a tax break to Keyes Fibre, there were conditions -- if the energy costs went up at a certain point, they could get the dollars that we sat aside for them. Even BIW tax breaks had strings, they had to revamp the dock at the State Pier, they had to keep the jobs in Maine and their operation in Maine.

My question really has not been answered -- how many dollars, for example, could B&A benefit from this and Maine Central Railroad?

I am at the point where I think maybe we should take some money out of this state and give it to B&A and have them buy out Maine Central Railroad and let them run the railroads in the State of Maine. At least, if nothing else, we would be dealing with a responsible, honorable management and that is not the case right now. I really think that we are making a serious error in judgment in allowing this bill to go forward on either report. I want an answer -- how many dollars could Maine Central Railroad accrue under this proposal under either report? I want a dollar amount, please?

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

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will try to take one question at a time. I think the first question, which I didn't get a chance to respond to earlier from the Representative from Portland was, how Maine Central Railroad happened to benefit from this provision for leased boxcars. Remember I said there were two calculations involved in figuring your tax liability under this railroad excise tax -- these leased boxcar provisions allows that, in the first calculation, the money spent on these boxcars is expense and in the second calculation, it is capitalized, essentially giving a double deduction. The reason that that benefited only Maine Central Railroad is because they are more heavily involved in leasing their boxcars than the other railroads. As a matter of fact, the other railroads don't lease enough boxcars that it makes any difference in their tax calculations. That is why there is a \$300,000 fiscal note on the Minority Report to continue that practice, which would cost \$300,000.

No, there are no provisions that that money be spent in the State of Maine but the provisions should not be extended, in my judgment, anyway and, even if there were strings to spend the money in Maine, it is a poor way to provide tax incentive to business. The way that you would be doing it in that case is that you would be taking an industry that has essentially five operators in the state and giving a tax incentive to one of them and not to the other four. Even if we provided strings for the money to be spent in the State of Maine, which again we do not, I wouldn't support passage of it anyway. That is why the Majority Report recommends doing away with it.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Members of the House: I am very concerned about this. There just seems to be more questions than there are answers to all of these tax exemptions. I am very concerned because the legislature, up to now, has acted in good faith. We have provided at least four different tax breaks for railroads of this state. We have exempted railroads from the sales tax on track materials, we shared the cost with them on maintenance, we have extended the long time freight car leases of the past acting on good faith, we have passed the \$850,000 bond issue; yet we still do not know where those tax dollars are being spent. We know that our railroad employees in this state are not being employed in good faith by the railroad. Answers to questions asked by, not only the legislature but the Governor's Office, the Maine Department of Transportation, the Congressional Delegation to the railroads, as to what are your traffic figures, what are your revenue figures, what are your cost figures, what is your plan for the State of Maine, have not been answered. It seems to me that before we provide more tax dollars we seem to be draining out of Maine that those questions should be addressed, not only by one railroad but all railroads.

This legislature, all of you people here, have agreed that a strong, rail policy is essential to the State of Maine and I agree with that and I know that we all support that. It has not been happening and, therefore, I would like to move indefinite postponement of this bill and all its accompanying papers.

Representative Jackson of Harrison requested a vote.

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

A vote of the House was taken.

Representative Joseph of Waterville requested a roll call.

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

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

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

Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't intended to get up right now but I was a little bit surprised at the vote. I like to be generous and I like to think that we are a generous legislature and sometimes it surprises me how generous we seem to be.

I guess for a number of years now I have held my nose while voting for tax breaks for the railroads and I have done it under the guise that it was good for Maine and we needed a strong rail system, which I believe we do need, and under the guise that by extending these tax breaks, that in some way, they were going to be helping to preserve jobs at the same time. I know in my area and other areas of the state now, at least for the last six months, we have seen exactly the type of commitment that Maine Central Railroad and others are placing in the State of Maine and how little concern they have for the workers in the State of Maine.

I don't know if you are getting the telephone calls I am getting every night and have been for the last two or three weeks but we have a special interest group of people out there called railroad workers, who haven't been treated very nicely. They have no information as to what is going on, checks have been withheld periodically, their jobs were abolished one day and the next day they weren't abolished but they were just gotten rid of -- it is kind of an ugly situation, I guess, the railroad industry. I really think for us to take this action today, without examining a little more carefully what the situation is in the State of Maine, it is like throwing bad money after bad money.

I feel like I just gave a dog a treat that bit me in the leg and it makes me feel real comfortable with the action that we have just taken. We have very precious resources with the federal cutbacks and I think we need to look long and hard on what we are going to be doing by giving tax breaks of a couple hundred thousand dollars to a couple of railroads with no strings attached, particularly in lieu of how they treated our workers. I certainly hope that you will join me and others today in voting to go along with the Representative from Waterville, Representative Joseph, as we deny these tax breaks and send a message to the railroads that it is about time we start a dialogue and I think that dialogue will start right after this vote.

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

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: I think all of us who have served down here for awhile will agree that, from time to time, you find yourself in a rather peculiar position and I think with the debate on this issue, I find myself in a very peculiar position.

To try to clarify because I think there is a little confusion judging from the remarks made by the last speaker -- the Majority Report, which has been moved and then was moved to be indefinitely postponed, does not continue the exemption that has been enjoyed by Maine Central Railroad on these boxcars of the favorable tax treatment that they have received for the last seven years. It does not continue that. The recommendation is that it be done away with. If the bill were to be indefinitely postponed, that would happen anyway because the sunset ran out January 1, 1986 so, in essence, I voted against the motion to indefinitely postpone

but, in essence, it really doesn't matter that much to me because either way, I win. So, I guess it doesn't matter to me if it is indefinitely postponed or not. The difference is that the Majority Report recommends a slight reduction in rates, not for Maine Central Railroad, but for all five railroads. That recommendation was made, quite frankly, in an effort to get a unanimous committee report, which didn't happen anyway so that really is not a big issue for me either. Again, I am in that peculiar position where, if the Majority Report is accepted I am happy; if the bill is indefinitely postponed, I am happy again. I really don't know which way to recommend the House to vote but I intend to vote to indefinitely postpone for one big reason -- if the bill is not indefinitely postponed, I think we are going to have about 20 amendments tomorrow and I would just as soon indefinitely postpone it this evening.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I, like Representative Cashman, am kind of happy here today. I came into this chamber tonight already to fight for my Majority Report thinking I was going to have a Minority Report to fight against and I find that Minority Report disappearing from me.

When I originally decided to support the Majority Report, it wasn't done with a great deal of thought that it was the right thing to do, separate from what we are talking about here today -- you have to remember that this issue was studied back in the summertime and a lot of things have changed since then and a lot of things have come about that haven't pleased me so I, like Representative Cashman, would not be upset if the present motion prevails.

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

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: Whatever way we vote, I think that we will do the right thing. There is no doubt that they don't deserve the tax anymore and I just want to say a couple of words. Tax incentives are great for Maine businesses helping Maine people and this is not a Maine business anymore and it is not helping Maine people. So vote anyway you want to but I am glad we are sending them a message.

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I think that is very interesting advice that the Representative has given us but I think we ought to kill the bill now. It is cleaner, much easier, it is going to save a lot of paper work so let's kill it now.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I, like the gentleman from Thomaston, came here this evening to debate a Minority Report -- now I am debating the Majority Report. It is sort of interesting. I see the majority members going the other way.

I think it is important that we don't lose sight of what we are doing here this afternoon. There is not only one railroad in the State of Maine, ladies and gentlemen, that one railroad that we have heard a lot of discussion about is Maine Central Railroad but that is not the only railroad in this state -- we

have the Belfast & Moosehead, which I saw when I was down in my old hometown the other day on our economic tour and it reminded me of the time when I lived in Belfast, we had the gentleman that represented the Bangor & Aroostook before us when we were discussing this. We have had Canadian-Pacific, we have had Canadian-National so this bill doesn't just benefit Maine Central Railroad, it benefits all these other railways which are providing services to the people of this state.

I think it is extremely important for us, as legislators, to take a look at our rail industry. We took a look at it on the tax side of it this last summer and fall. The Transportation Committee took a look at it and I understand that the Governor did have a task force that did make recommendations and these recommendations, I don't think, should be taken lightly. I think we should give them some serious consideration. I know that there is an emotional issue between the union and Maine Central Railroad but, on the other side, there is an issue of attempting to help or assist the railroads which are operating in this state today, not just one of them but all of them, so I think we should be addressing all of the rail issues. We are talking about a very small cost to state government as far as the tax reduction goes.

We are talking one-quarter of one percent in each one of those brackets. The loss of revenue to the State of Maine is \$100,000. If you take that loss of revenue of \$100,000 and balance against the repeal of the railroad excise taxes that relates to leased boxcars, actually it is a windfall to the General Fund of \$200,000. Actually, we are taking a \$300,000 windfall that was coming to the General Fund by the repeal of the railroad excise taxes that relates to leased boxcars and taking \$100,000 of that and putting it onto the other side of the ledger to assist those railroads who operate in the State of Maine by reducing their tax liability by one-quarter of one percent regarding the individual tax bracket that they are in. I want that understood and I think that should be perfectly clear. I think we should try to assist and tempt these small railroads, not only Maine Central or Canadian-Pacific or Canadian-National but the Bangor & Aroostook and Belfast & Moosehead.

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

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I didn't stand up today to send a negative message to the railroads. It is not an intent here to make this a labor-management issue before you — I have not lost sight of what we are doing simply because I have a standing record of participation in trying to assist to make sure that we have decent railroads in our state. We need them. \$300,000 of tax breaks or \$1 million of tax breaks is not a little money in this state. There are a lot of us who have bills that are a lot more important that would cost somewhere around those price ranges.

I am concerned about the B&A and the Moosehead & Belfast but I also know that last year we handed out about \$6 million worth of tax breaks to the railroads. We gave them more assistance in helping to exempt them from maintenance of crossings in our state. Maybe we have not done enough but I say to you that there is something inherently wrong here today — you have two reports, everybody seems to be

now coming on to one report; yet they signed out the other. Nobody can seriously indicate just how much money is going to go where and for what. There are no strings attached. I wonder if the question was asked of all the railroads who came in support of this bill, just how this money was going to assist them. I contend that you need to do more work. You need to look at the picture of railroads and how they belong in the State of Maine, you need to do it from now on, come back with a more reasonable proposal next January that will help everybody probably in a better manner than this thing. Last year I think we went a long way in trying to help, understanding that we failed over the years to pay attention to our rail industry, but with all the confusion and all of the comments and everybody switching sides here, I think that something is wrong in the woodpile. Apparently, we are not going to be able to dig it out today so let's reassign someone else to look at it again.

I support the indefinite postponement and please trust me when I tell you that I could stand here and tell you some horror stories that have been going on over the past three weeks about what some of the railroads in our state can afford or cannot. I choose not, I think we need to kill this bill and let it go on its merry way and have DOT, the Governor and someone else go about the task of looking at the rail industry again.

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

75 having voted in the affirmative and 60 in the negative with 16 being absent, the motion did prevail. Sent up for concurrence.

(See Roll Call No. 256)

The Chair laid before the House the following matter: An Act to Make Changes in the Reserve Fund for Municipal Water Departments and Quasi-municipal Water Districts (S.P. 649) (L.D. 1674) (C. "A" S-394) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Vose of Eastport, retabled pending passage to be enacted and specially assigned for Wednesday, March 19, 1986.

The Chair laid before the House the following matter: An Act to Eliminate Exemptions from Jury Service (H.P. 1531) (L.D. 2158) which was tabled earlier in the day and later today assigned pending the motion of Representative Kane of So. Portland to indefinitely postpone House Amendment "A" (H-581).

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: I want you to know that John Lisnik said he knew the answer to that question but he was afraid to get up and volunteer because he said it would make me look particularly stupid.

Everyone but me apparently knew the answer to that question and the answer is that chiropractors

have never been in the statute, chiropractors have never had this exemption and chiropractors, in my experience, have never asked for it or even expressed an interest in it.

I urge you to indefinitely postpone this amendment. As I said before, this is a unanimous committee report. We worked on it.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Roberts.

Representative ROBERTS: Mr. Speaker, Ladies and Gentlemen of the House: I was not involved in the committee deliberations but I find Representative Handy's amendment appealing and I wonder what is wrong with it. As I understand it, under the committee version, a physician must tell the people that his being on jury duty would provide a threat to the health of a patient or patients. I live in an area where there are a number of idealistic young physicians, many of them working in partnership with the other. I think some of them, if I understand the bill correctly, would have a real struggle with their conscience to say that if they served on the jury that it would provide a threat to the health of a patient or patients.

On the other hand, Representative Handy's amendment says -- as I understand it, the committee says, we are going to excuse all the doctors and dentists in active duty anyway by going through this rigamarole.

Representative Handy says, let's excuse those doctors and dentists who are in active patient care. I guess I would ask the committee, what is wrong with Representative Handy's amendment? I think it is superior to the bill from what I have heard this afternoon.

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

The Chair recognizes the Representative from Windham, Representative Cooper.

Representative COOPER: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman posed a question and I believe if you look at the bill, you will see that Section 2 of the bill provides that a qualified perspective juror may be excused from jury service only upon showing of undue hardship, extreme inconvenience, public necessity or that he is incapable of rendering satisfactory jury duty by reason of physical or mental disability. This amendment deletes Section 2, as I read this amendment; therefore, I assume that if you have a mental disability, among any of the others mentioned, you would not be able to be excused from jury duty. That is one of the problems with this amendment.

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

Representative HANDY: Mr. Speaker, Ladies and Gentlemen of the House: It is interesting that that is the only fault they find with the amendment. I am glad of that because it must mean the amendment is very good.

I spoke with Mr. Silsby in the Office of the Revisors and he tells me that this only eliminates that from the bill. It does not eliminate it from the statute itself. So, I guess the amendment must be in pretty good shape.

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

Representative PARADIS: Mr. Speaker, Men and

Women of the House: I will be very brief knowing the hour that we are at.

I am a little bit confused with the gentleman's most recent remarks as to what is appealing and what is not appealing about the bill. I think that over all we can certainly endorse what the Representative from Farmington has spoken on the Record and indeed the remarks of the Representative from Lewiston on the Record about this amendment.

I think we ought to back up just briefly and ask ourselves why this bill is before us and why we have an amendment to this bill. We deem it to be necessary for a free society to have a jury of one's peers judge us and, as I said earlier, (on the Record), not just people who are secretaries in offices and people who work with their hands for a living -- that all people ought to have a right to be judged by all walks of life unless there is eminently a disqualification because of a conflict of interest.

What this bill seeks to do is bring that back to its original form because we know that ever year -- and I have been a member of this body for eight years -- another group comes to us and says, please exempt us from jury duty because we are ski lift operators, we are ministers, we are so on and so forth and we deem it to be necessary -- we do not like to judge people. Well, I do not like to judge people either but in fairness to the good doctors and good dentists of this state, who are very much in support of the bill presently before us -- let me read briefly into the Record the remarks that were sent to us this afternoon. They are addressed to the Chairman of the Judiciary Committee. This is from Mr. Gordon Smith, Legal Counsel for the Maine Medical Association. "The association is satisfied that the language in the redraft protects physicians and dentists who are providing active patient care from being put in a position where service on a jury may be injurious to a patient." I further quote, "In other words, the association is not opposed to the redrafted document, L.D. 2158." Also permit me to quote to you from Dr. Howard Bates, President of the Maine Dental Association, "The Maine Dental Association wishes to go on record acknowledging our full support of L.D. 2158, a new draft of L.D. 1932, 'An Act to Eliminate Exemptions from Jury Service' and we are greatly appreciative of your recognition that there will be times when a dentist, in an interest of continuity of care, will wish to request to be excused from jury service. We recognize and acknowledge our responsibility to serve as do other citizens on juries in the State of Maine and we appreciate your allowing us to petition for exemptions under certain circumstances. Very truly yours, Howard Bates, DMD."

For the life of me, ladies and gentlemen of the House, I do not understand the problem that the Maine Medical Association backs the redraft of this legislation, the Maine Dental Association backs the draft of this legislation, they recognize their responsibility, they have always been a responsible group. I think it is nice to want to exempt automatically but you have heard arguments made that there may be doctors that are retired; there may be doctors who are on vacations; there may be doctors who want to go to conferences and so on and so forth so I don't think that every single day that we want to give a prima facie case and say, every single day a doctor is involved in an emergency situation. There are those that want to serve and they recognize the responsibility and we ought to recognize that we

all want to have people serve on the jury if they can because it is for the benefit of our citizens.

I urge you to please indefinitely postpone House Amendment "A" in the interest of justice.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I believe that all physicians, who are presently providing patient care, are at any time facing an emergency situation which could result in either the life or death of a person who may be under their care. While it may not be directly at their hands, it is quite possible that while that person is serving on a jury somewhere, one of their patients could become very ill and be rushed to the emergency room and perhaps be deprived of vital medical knowledge possessed only by that doctor or by the information that is in the files that he possesses.

It is possible, for example, in the case of a dentist who is experienced with a problem that one of his patients has. That patient could get an acute condition and need to see that dentist right away and that dentist would not be available. So, that person would have two choices, to seek the help of another dentist or simply to suffer and wait for their dentist to be finished with jury duty.

I think it makes sense for teaching physicians or teaching doctors to in fact serve on a jury but I do not think it makes sense for a doctor who is responsible for the well being of his patients, whether he be a medical doctor or a dentist to, at any time, deprive those patients of what they need most, his knowledge, something that could at any time, as I said earlier, result in possibly a life saving situation.

They have been exempt in the past and I think they should remain that way.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: You have to be fast on your feet to get up when your competition is right next to you.

I couldn't resist the opportunity to support Mr. Handy. We are always on the opposite side. I have never had an opportunity to agree with him. I think tonight I have to agree with him. After all, we have to think of the patients as well as the doctors. If I had my way, I wouldn't exclude the lawyers either. Those are the people that perhaps should be there if you are talking about your peers, Mr. Paradis. I just think that we are going to have people that are essential and the doctors are essential to us, the patients. It is not necessary for the doctors to sit down, go through the little school yard type of thing, write a note or call and say, "may I be excused?" It isn't necessary because he is going to be excused anyway.

This is a simple straight forward way of doing it and I agree.

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

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I think we are belaboring a point that is miniscule. The idea of a doctor not being excused by the judge, when he requests to be excused, is ridiculous. The judges are not inhuman,

they recognize the importance of a doctor to his patients.

The other thing that I would like to point out from my own personal experience, I would doubt very much that a doctor would ever be called for jury duty. The jury wheels are made up of all the people in the community and I have never been called for jury duty, many other people I know have never been called. I am very sure that it would be a limited number of times when you would get a doctor called for jury duty. All he needs to do is call or drop a note and the court will excuse him.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I, like Representative Dillenback, it is the first time that we are agreeing with Representative Handy from Lewiston. At first I thought I was becoming a liberal or he was going to become a conservative.

Everybody has been talking about the rights of the doctors here today. What about the rights of the defendant's and the plaintiff's in having the doctors on the jury? I can just imagine the chaos that it is going to cause because the big majority of the court cases are personal injury. When they inquire of the jury, as they seat them, they will ask the doctor, what is your view on a certain type of injury or how do you feel about that? You are going to have complete chaos.

When my friend from Augusta, Representative Paradis said that the Maine Medical Association and Maine Dental Association are in favor of it, that was when I got scared. I get darn scared when they start supporting something because they are only looking after themselves. Why are they so anxious to serve on the jury? I don't want them on the jury. If I am on the witness stand and I am being charged as a defendant or plaintiff, from what the salaries that the doctors make and what I make, they are not my peer that is for sure, no where near it. So, how will they determine where they will leave friendship or professional relationship to one side and make a determination based strictly on the facts that are given to them in the trial?

I will support the motion of Mr. Handy of Lewiston and I would ask that you would too.

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

A vote of the House was taken.

Representative Allen of Washington 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 more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

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

64 having voted in the affirmative and 69 in the

negative with 18 being absent, the motion did not prevail.

(See Roll Call No. 257)

Subsequently, House Amendment "A" (H-581) was adopted. The bill passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

BILL HELD

An Act to Clarify the Confidentiality Provisions of the Maine Banking Code (H.P. 1532) (L.D. 2159)

Representative Brannigan of Portland moved that the House reconsider its action whereby L.D. 2159 was passed to be enacted.

On further motion of the same Representative, tabled pending his motion and tomorrow assigned.

(Off Record Remarks)

On motion of Representative Cote of Auburn,
Adjourned until Tuesday, March 18, 1986 at nine o'clock in the morning.
