

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Thirteenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

May 26, 1987 to June 30, 1987

Index

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE  
 FIRST REGULAR SESSION  
 80th Legislative Day  
 Wednesday, June 3, 1987

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

Prayer by Father Michael Seavey, Holy Cross Church, South Portland.

The Journal of Tuesday, June 2, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS  
 Divided Report  
 LATER TODAY ASSIGNED

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Require Registration of Persons Proposing to Distribute Free Tobacco Products" (S.P. 218) (L.D. 585)

Signed:  
 Senators: BALDACCI of Penobscot  
 WHITMORE of Androscoggin  
 Representatives: ALLEN of Washington  
 REED of Falmouth  
 LEBOWITZ of Bangor  
 TELOW of Lewiston  
 STEVENS of Sabattus

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-114) on same Bill.

Signed:  
 Senator: BRANNIGAN of Cumberland  
 Representatives: HILLOCK of Gorham  
 RACINE of Biddeford  
 GURNEY of Portland  
 ALIBERTI of Lewiston

Representative SHELTRA of Biddeford - of the House - abstained.

Came from the Senate with the Bill and accompanying papers indefinitely postponed.

Reports were read.

Representative Allen of Washington moved that the House accept the Majority "Ought Not to Pass" Report.

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

Non-Concurrent Matter

Bill "An Act to Protect Existing Essential Public and Private Ground Water Supplies" (S.P. 573) (L.D. 1715) which was indefinitely postponed in the House on June 2, 1987.

Came from the Senate with that Body having adhered to its former action whereby the Bill was referred to the Committee on Energy and Natural Resources in non-concurrence.

The House voted to adhere.

ORDERS

On motion of Speaker MARTIN of Eagle Lake, the following Joint Resolution: (H.P. 1271) (Cosponsors: President PRAY of Penobscot, Senator BUSTIN of Kennebec, and Representative HICKEY of Augusta)

JOINT RESOLUTION IN RECOGNITION OF  
 ROBERT G. REDMAN OF AUGUSTA,  
 DEPUTY STATE AUDITOR

WHEREAS, "One machine can do the work of fifty ordinary men. No machine can do the work of one extraordinary man."; and

WHEREAS, among the many unsung servants of State Government whose work has been truly extraordinary is one Robert G. Redman of Augusta; and

WHEREAS, the Legislature and the several departments of State Government have all benefited from his wise and valued counsel for over 34 years and feel a special sense of gratitude for his service; and

WHEREAS, it is a pleasure for members of the Legislature to pay tribute to this distinguished and highly respected Deputy State Auditor; now, therefore, be it

RESOLVED: That We, the Members of the 113th Legislature of the State of Maine now assembled in the First Regular Session at the State Capitol, take this opportunity to join friends and colleagues throughout the Legislature and its several departments in expressing to Robert G. Redman our affection, gratitude and admiration, all of which he has won on the basis of many years of outstanding professional service; and be it further

RESOLVED: That a suitable copy of the sentiments expressed herein be prepared and presented to this faithful friend and valued public servant with the warmest of wishes for his continued success, prosperity and happiness for years to come.

Was read and adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative MANNING from the Committee on Human Resources on Bill "An Act Relating to Construction Standards for Access for Handicapped Persons to Public Facilities" (H.P. 1129) (L.D. 1539) reporting "Ought to Pass" in New Draft (H.P. 1263) (L.D. 1727)

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

Ought to Pass in New Draft

Representative CASHMAN from the Committee on Taxation on RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (Emergency) (H.P. 1072) (L.D. 1455) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1264) (L.D. 1728)

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 WILLEY from the Committee on Labor on Bill "An Act Relating to Determination of Benefit Claims under the Unemployment Compensation Law" (H.P. 1071) (L.D. 1454) reporting "Ought to Pass" in New Draft (H.P. 1267) (L.D. 1730)

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

Ought to Pass Pursuant to Joint Order (H.P. 23)

Representative BOUTILIER from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1987 (Emergency) (H.P. 1269) (L.D. 1733) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 23)

Report was read and accepted.

Under suspension of the rules, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

PASSED TO BE ENGROSSED

Ought to Pass Pursuant to Joint Order (H.P. 23)

Representative LACROIX from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1987 (Emergency) (H.P. 1270) (L.D. 1734) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 23)

Report was read and accepted.

Under suspension of the rules, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

ENACTOR

Emergency Measure

An Act to Upgrade the Coordinator of New and Existing Services for Persons with AIDS-related Complex and Viral Positivity under the Maine Revised Statutes (S.P. 571) (L.D. 1708)

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

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I move that L.D. 1708 be indefinitely postponed. The reason that I asked for indefinite postponement is that part of the funds for this bill are included in the Part 1 and this bill is not needed.

Subsequently, L.D. 1708 was indefinitely postponed. Sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Establish the First Full Week of June as Garden Week (H.P. 1248) (L.D. 1704)

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. 105 voted in favor of the same and 7 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED

Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1987 and Authorizing the County to Raise up to \$350,000 for Expenses in Conjunction with Jail Construction (H.P. 1239) (L.D. 1691)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker, and sent to the Senate.

FINALLY PASSED

Emergency Measure

RESOLVE, Requiring a Legislative Study of County Budget Procedures (H.P. 1240) (L.D. 1692)

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. 106 voted in favor of the same and 10 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Provide a Bill of Rights for Persons with Long-term Mental Illness (S.P. 283) (L.D. 793) (C. "A" S-105)

An Act to Amend the Probate Code to Allow Reasonable Compensation for Public Guardians or Conservators (S.P. 461) (L.D. 1418)

An Act to Adjust Time Limits and Clarify Responsibility for Certification and Registration of Deaths (S.P. 466) (L.D. 1423) (C. "A" S-104)

An Act to Amend the Maine Juvenile Code to Provide Greater Flexibility in Sentencing Juvenile Offenders (S.P. 469) (L.D. 1429)

An Act to Provide Special Plates or Placards for Handicapped Persons (S.P. 564) (L.D. 1685) (S. "A" S-106)

An Act to Clarify the Right to Prevent the Attendance of or to Remove a Committed Offender from a Disciplinary Hearing (S.P. 567) (L.D. 1699)

An Act to Grant Jurisdiction to Bail Commissioners to Ensure the Integrity of the Judicial Process (S.P. 568) (L.D. 1700)

An Act Relating to Catering Services under the Liquor Law (S.P. 569) (L.D. 1702)

An Act to Clarify the Rights of Former State Employees who were Transferred to the Maine Vocational-Technical Institute System (H.P. 458) (L.D. 613) (C. "A" H-208)

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.

PASSED TO BE ENACTED

An Act Relating to the Uniform Premarital Agreement Act (H.P. 538) (L.D. 722) (C. "A" H-200)

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

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

Representative BRAGG: Mr. Speaker, Ladies and Gentlemen of the House: I would ask for a roll call and speak briefly.

I have a problem with the concept that is expressed in this legislation. It seems to be taking something away from the marriage vows between a man and a woman when they go into a marriage relationship and making it more of a business contract rather than a verbal agreement between two people.

I also understand that there is nothing in the statutes presently that would prohibit this type of agreement between people getting married for the first time, second time, or subsequent after that time and I just question the necessity of this legislation being in front of us.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Just to answer the concerns of the Representative from Sidney — this is a Uniform Premarital Agreement Act. It comes to us by virtue of the sponsorship of the members of the Judiciary Committee, Representative Hanley of Paris and Representative Anthony of South Portland, as a suggestion to the committee, from time to time, from the Uniform Commission of State Laws to enact model

legislation that couples can use before entering into a marriage.

I would just like to correct one inaccuracy that was stated by the good gentleman from Sidney. Marriage is not a verbal contract, it is a written contract. It is designed and regulated by state laws in all the 50 states so that when two people agree to marry, exchange vows, they do sign a marriage certificate and there are certain rights and obligations that are imposed by the court because of that.

What this bill does is, those who willingly and voluntarily want to have a premarital agreement can do so and have a model bill to use so they don't have to reinvent the wheel every time they want to establish a premarital agreement act.

The bill, as amended, has one important feature added to it -- that any time a child is born of that marriage, that it becomes null and void after 18 months, if that is not renewed. So, any time a child comes into the picture, the husband and wife have to renew the premarital agreement because of a new circumstance. If they don't do so within 18 months of the birth of the child, the agreement becomes null and void.

I really complement Representative Hanley and Representative Anthony for having brought this type of model legislation to us. Many of the states are adopting it because this is 1987 and it seems to be a trend that couples are marrying and wanting to enter into premarital agreements before they do so.

I urge "Ought to Pass" on this Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the Chairman of the Judiciary, if I may please. Representative Paradis -- does this mean that each time one of these contracts is entered into, that an attorney would have to be involved or is this a handout that could come from the Judiciary people?

The SPEAKER: Representative Davis of Monmouth has posed a question through the Chair to the Chairman of the Judiciary Committee, who may respond if he so desires.

The Chair recognizes that Representative.

Representative PARADIS: Mr. Speaker and Members of the House: I would like to answer my friend from Monmouth, that an attorney is never needed to do any agreement. But I would caution him as a layman that any time you act as your own counsel, you have a fool for a client. So, I would say that any time you want to enter into something that is legalistic and complicated to an extent that it determines your assets and your future lives together, it might be wise to consult an attorney. It is not necessary, but it might be wise. As a lay person, I would certainly suggest to you that you go see an attorney because I would not want to be on the reverse end of that stipulation.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I rise today just to clarify and simplify this matter that the good Representative from Sidney, Representative Bragg, has brought up. I can't claim all the responsibility for this. This was brought to us by the Commissioners on Uniform State Laws. As Representative Paradis has pointed out, many states have adopted this Uniform Premarital Agreement Act.

I would also like to point out that the law books now have anti-nuptial agreements which anyone can

enter into. If it is Representative Bragg's intent that he would like to have this type of action be totally removed, then a bill should be entered that would do away with anti-nuptial agreements.

The only thing this bill will do is enable those people, who are entering into such an agreement, it will make sure that both parties are aware of the situation, that they can contract to an agreement that is enforceable and valid on both parts, so that one party isn't trying to be subversive or trying to get something from the other party.

Also, some people that are entering into a serial marriage, whether it is their second or third marriage, have property that has previously been generated and they have their own children and siblings that they would like to have taken care of later on. Right now, if they do enter into such a contract, there is no guarantee that this contract will be looked upon as valid by the courts. This law right here, this Uniform Premarital Agreement Act, would enable both parties to enter into an agreement that is fair on both sides and just covers up discrepancies that exist in the law now regarding the anti-nuptial agreement.

If you oppose this type of agreement, then you should enter a bill that will do away with all these types of agreements. The only thing this bill will do is clarify and tighten up the agreement process as it states now. I ask for your support on this motion.

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 passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 99

YEA - Allen, Anthony, Armstrong, Baker, Bickford, Bost, Bott, Callahan, Carroll, Cashman, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Harper, Hepburn, Hickey, Higgins, Hoglund, Holloway, Holt, Ingraham, Jackson, Jacques, Joseph, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Racine, Rand, Reed, Reeves, Rice, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Seavey, Simpson, Small, Soucy, Stanley, Stevens, P.; Stevenson, Strout, D.; Swazey, Tammaro, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Webster, M.; Whitcomb, Willey, Zirkilton.

NAY - Aliberti, Anderson, Bailey, Begley, Bragg, Brown, Davis, Dellert, Dexter, Farnum, Farren, Hichborn, Hussey, Look, Macomber, McPherson, Murphy, E.; Nicholson, Parent, Pines, Sheltra, Sherburne, Smith, Stevens, A.; Strout, B.; Wentworth, Weymouth.

ABSENT - Boutilier, Carter, Chonko, Hillock, Jalbert, Richard, Salsbury, Warren, The Speaker.

Yes, 113; No, 27; Absent, 9; Vacant, 2; Paired, 0; Excused, 0.

113 having voted in the affirmative and 27 in the negative with 9 being absent and 2 vacant, the Bill

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

ENACTOR

LATER TODAY ASSIGNED

An Act Relating to Adult Education (H.P. 893) (L.D. 1194) (C. "A" H-201)

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

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

PASSED TO BE ENACTED

An Act Concerning Tax on Cargo Trailers (H.P. 940) (L.D. 1263) (C. "A" H-209)

An Act to Require Minimum Evacuation Standards for Boarding Care Facilities (H.P. 1100) (L.D. 1491)

An Act to Require Rulemaking by the Department of Mental Health and Mental Retardation Regarding Administration of Cardiopulmonary Resuscitation in State Institutions (H.P. 1158) (L.D. 1584)

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 Amend the Duties of the Commissioner of Labor (H.P. 1199) (L.D. 1634)

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

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

PASSED TO BE ENACTED

An Act to Establish Field Offices of the Maine Land Use Regulation Commission (H.P. 1227) (L.D. 1676) (S. "A" S-102)

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

ENACTOR

LATER TODAY ASSIGNED

An Act to Create Minimum Safety Standards for Firefighters (H.P. 1234) (L.D. 1686)

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

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

PASSED TO BE ENACTED

An Act to Provide Cable Television Access to Apartment Dwellings (H.P. 1247) (L.D. 1701)

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

FINALLY PASSED

RESOLVE, to Establish a New Commission on Maine's Future (S.P. 232) (L.D. 626) (C. "A" S-103)

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

ENACTOR  
LATER TODAY ASSIGNED

RESOLVE, Authorizing Dorothy Gammon to Bring Civil Action Against the State and Cumberland County (H.P. 1235) (L.D. 1687)

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

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

BILL HELD

Bill "An Act to Establish a Moratorium on Land Leases Affecting Tree Growth Classification" (Emergency) (H.P. 743) (L.D. 1006)

- In House, passed to be engrossed. HELD at the request of Representative MICHAUD of East Millinocket.

On motion of Representative Michaud of East Millinocket, the House reconsidered its action whereby L.D. 1006 was passed to be engrossed.

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

(Off Record Remarks)

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

(At Ease to the Gong)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Divided Report Majority Report (seven members) of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Require Registration of Persons Proposing to Distribute Free Tobacco Products" (S.P. 218) (L.D. 585). Minority Report (five members) of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-114) on same Bill. (One member of the committee abstaining) which was tabled earlier in the day and later today assigned pending the motion of Representative Allen of Washington that the House accept the Majority "Ought Not to Pass" Report.

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

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to explain why I abstained on this particular issue. We have been going through the crunch period for one thing and you know how busy things can be.

When we had a committee hearing on this, the Senate Chairman had a letter from the tobacco industry stating that they would monitor themselves and it seemed to be pretty much of the opinion of everyone concerned, at that point in time, that we should just make it "Ought Not to Pass," but evidently thereafter there appeared to be a groundswell. I personally was always in favor of the bill but I didn't want to be the only one to be represented on the Minority Report. As I noticed afterwards, as you can tell, there are at least five

others that felt all of a sudden, the bill is important. Of course it is important to me because anything that we can do to suppress the distribution of tobacco products to our youth, I think we should do it even though it might be minute. Anything that we can do to interfere in this matter, I am totally for. Frankly, I certainly am in favor of the Minority Report and I wish you would go along with it.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not go with the Majority "Ought Not to Pass" and go with the Minority "Ought to Pass" Report. I am the cosponsor of this bill.

The bill will require that the tobacco companies wishing to distribute free tobacco products to register their intent to do so with the Bureau of Health and to receive a permit. This will give them a method of acquiring information on free distribution that is going on in Maine without prohibiting it. This will assure, through monitoring of the distribution that Maine law prohibits distribution to minors, is not being violated.

The tobacco industry's opposition has been mounted on the grounds that sampling is a constitutionally protected advertising practice and the industry's own code of sampling practice prohibits sampling to minors. They contend that the First Amendment protects the right to free speech and the United States Congress Public Health Cigarette Smoking Act of 1969 preempts states and municipalities from regulating cigarette advertising on the basis of smoking and health.

They have also threatened to challenge any anti-sampling or promotions in court. However, no legal challenges have been mounted to date. Seven U.S. cities have enacted ordinances banning the distribution of cigarettes samples -- as of recently, Cambridge, Massachusetts. The bureau collects a fee for issuance of tobacco products, not to exceed \$50.00 for each period of distribution of three days or less, must give location of where they will be distributed plus the product and the days and the times, and must give the names of the person who will be distributing the product. They must carry the permit at all times during the distribution. The tobacco industry knows six months or more where they are distributing and so this should not be a hardship. The cost is very low for an industry that spends \$2 billion on advertising and promotion of cigarettes. This bill will allow us to know ahead of time monitoring where they are going. Yes, they are going to places like Sugarloaf, Oxford Plains Raceway, and at concerts where thousands of young people attend.

We just passed out a bill for safety belts for children under the age of twelve to protect the health and welfare and to train them to wear them when they are adults. This bill is a prevention bill. The U.S. Public Health Service estimates 1.4 million adolescents begin to smoke each year. About 7,000 Maine youngsters start each year, more young women than men. The tobacco industry changed the Maine Criminal Code four years ago in this state through legislation so that kids cannot buy cigarettes at the age of eighteen. Yet, they target new potential consumers particularly aimed at the youth market.

In 1964, the response to the growing concern about the health effects of cigarette smoking and the looming possibility of stringent regulations, the tobacco industry developed and adopted a voluntary code to govern cigarette advertising and promotion.

However, current cigarette advertising campaigns reveal the ineffectiveness of this alleged voluntary code.

People smoke because of the nicotine dependency and cigarette smoking meets the four characteristics of drug dependency. The voluntary code says "Sampling shall not be conducted in any place within two blocks of any center of youth activities, such as playgrounds, schools, college campuses, fraternity or sorority houses." American cigarette manufacturers spend \$2.1 billion on advertising and promotions. From 1980 to 1983, the tobacco industry increased their national expenditure on the free distribution from \$50 million to \$126 million -- a 152 percent increase.

Ladies and gentlemen, this is a prevention bill. We put a look-alike drug through a few years ago even though it wasn't much of a problem in this state. I was the cosponsor of that and we put it through unanimously. I cannot see why we can't do this today.

Many children can go into the mom and pop stores and see the free samples of cigarettes where the candies and the gums are. You know what kids are like -- anything for free, they will take it. So I hope you would support this. You know where the promoters are going and you know what they are targeting.

I just want to tell you that I got an Attorney General's opinion on this. The tobacco industry claims that they are preempted under the federal law. Well that is not true. The Attorney General says they are not preempted. I hope that you will support this bill and make sure that our kids are protected against cancer, a disease that we know is probably the highest in the country in the State of Maine, if you have read any recent reports. We want to stop them before they become adults and we want to stop cancer in our state, once and for all.

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

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I rise to ask you to support the Majority "Ought Not to Pass" Report. This is another bill that, in reality, does nothing of substance. It does ask that a \$50 registration fee be collected when free distribution of tobacco products is anticipated, but it certainly is questionable whether specific locations, days and times of distribution, can be pinpointed in advance to meet the requirements. The Tobacco Institute does advise that the majority of sampling in 1986 in Maine was by the Phillip Morris sponsored Marlboro Cup Races at Sugarloaf and the United States Tobacco Company sponsored races at Oxford Plains Raceway. There is mention that the State Bureau of Health, through registration, is allowed a means to monitor distribution so minors are not included in this. If there were but two distributions made in 1986 with a fee of \$50 per permit, which would allow a \$100 pool of money to finance the monitoring, I do not believe that would cover the expenses of the personnel required to carry out this function.

The federal Cigarette Labeling and Advertising Act expressly prohibits state or local regulation of cigarette advertising or promotion based on smoking and health. This presumption provision reads as follows: "No requirement or prohibition, based on smoking and health, shall be imposed under state law with respect to the advertising or promotion of any cigarettes, the packages of which are labeled in conformity with the provisions of this chapter" -- 15USC Section 1334B. It is the state's legislative history that proponents as well as the opponents of the law emphasize repeatedly that the smoking and

health controversy and associated advertising and promotions affect commerce throughout the country. They also pointed out repeatedly that chaos and confusion would prevail if each state or locality were free to enact its own special legislation with respect to cigarette advertising or promotion.

I urge you to vote yes on the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I rise to urge you to support the Majority "Ought Not to Pass" Report and I would like to explain my position on this particular bill.

Without a doubt, I fully and totally concur with the remarks of the Representative from Portland as to how we ought to be concerned about the health and welfare of our children. I would like to add that this bill does absolutely nothing to achieve those goals and I would like to explain why.

The Representative from Portland claims she has an opinion from the Attorney General's Office. I can assure you that the committee has not seen such an opinion. In fact, the Attorney General's Office spoke to us, (we have no written comment from the Attorney General's Office) with regards to two bills that came before our committee this session. One bill was granted a Unanimous "Leave to Withdraw" because, in fact, federal law preempts us from taking any action that requires a prohibition based on smoking and health. We cannot get involved in prohibiting promotion and advertising if you are going to use the health argument. The health argument is the only argument before us. To the best of my knowledge, and I have done a large amount of research, we do not regulate any other industry in this manner. So if there is a compelling public reason to do it, it is obviously the health and welfare of our children. If that is our goal, and I agree it is admirable, and in fact have supported every single non-smoking bill that has ever come before this legislature in the five years I have been here, and will continue to do so but this bill does not achieve that goal.

As a matter of fact, the only goal it achieves is setting us up for a court case. I happen to think that is bad public policy. What they are asking the industry to do is put up \$50, give it to the Department of Health, and the Department of Health is going to keep a list of who is distributing tobacco products in this state.

My contention is we know who is distributing tobacco products in this state and we know when they are doing it. They did it twice last year. They did it once at Sugarloaf and they did it once at Oxford Plains. Both of those areas, I would argue, are frequented, yes by children, but primarily have an adult audience. They are not standing on the street corners outside of schools handing out free products. If they are really and truly concerned about free products, I would like to know why they exempted mail, and why they exempted the two-for-one offers you can get at the supermarket. Those are exempted from those bills. I contend that most of the free samples that are handed out are handed out in that manner. So again, the bill misses its mark there.

The other thing, if there is a true concern about distributing tobacco products to children, the bill doesn't even prohibit minors from distributing the products. They can still hire minors to distribute products because it is illegal to distribute or sell these kinds of products to minors, but it is not illegal in this state to possess them.

Let me also point out that, if we really want to put teeth into our laws that say children should not have cigarettes, I would suggest that we finance some form of enforcement for the laws we already have on the books. The laws specifically say, children cannot buy cigarettes. I would guess that children are still buying cigarettes and my guess is, there is nobody out there enforcing the law. So if we are truly concerned about the distribution and sale of cigarettes to minors, I suggest we put some teeth into the laws that we already have.

If you really want to make this a good issue and have it so that somebody can enforce it, then you ought to make the fee for registration — say \$5,000. That way, the Bureau of Health could hire people to enforce the law. Right now, all they have to do is keep a list of the names and places of distribution. For what purpose? There is absolutely nobody on the payroll now (nor is there going to be) who is going to go out and see if they are handing out cigarettes on the street corners of Washington, Maine. Nobody can follow up. There is no money there to follow up. If you can't follow up, what is the point of the bill?

If you want to make a philosophical statement, that is fine, but this is inappropriate because it is going to take us directly to court.

I would urge this House to reject this report because it is a bad bill, it is going to take us to court, it is poor public policy and it accomplishes nothing. It is great rhetoric, but it goes nowhere.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I have to agree somewhat with what has been said on the floor by both opponents and proponents of the measure. When the bill was heard in committee, we were informed by the lobbyists of the tobacco industry that we could not preempt the federal regulation pertaining to the sale, distribution, and marketing of the cigarette industry. The bill, as was presented, and has been stated by Representative Allen, does not have that much teeth into it. So at the time of the debate, I was in favor of putting some restrictions on the free distribution of cigarettes because, it is my contention that the only reason why they are making free distribution, is to get at the youth of our country. They get them hooked on cigarette smoking and the way that you get hooked is by trying a cigarette. For those of you that have never smoked and those of you that have, when you take that first cigarette, you have a feeling of being elevated. Your mind sort of wanders and it is a good feeling, but it doesn't last that long. What it does, it eventually affects you lungs, causing cancer.

In committee, I was in favor of putting in a separate bill to include a \$5,000 registration fee as was pointed out by Representative Allen. Looking over the whole aspect of the bill, I said, why don't we put it out on the floor and then I will put on an amendment. I think I may have made a mistake. I think I should have come up with a separate report to include a \$5,000 registration fee. Now, in order for me to put an amendment on this bill, we are going to have to pass it, so that I can put an amendment on at second reading.

Here is what I will propose to do if you ladies and gentlemen of the House see fit to pass this bill. A \$5,000 registration fee may be considered excessive, so I am prepared to sort of compromise. What I propose to do is to establish a \$2,500 registration fee, and that registration fee is going to be paid to the Bureau of Professional Regulation,



where they have a staff that can go out and perform these inspections and monitor the program. They prorate the expenses of their investigators to different licensing boards and they can do the same here. So instead of registering with the Bureau of Health Services, they can do this at the Department of Professional Business Regulation, then we will have the enforcement procedures in effect. If this body will pass this bill, then on second reading, I will have that amendment on the floor, we will put some teeth behind this bill to make sure that free distribution of cigarettes does not fall in the hands of our juveniles.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I agree with our House Chair to the extent of what the bill doesn't do. I also agree that perhaps it should be addressed in a more intense manner, but to make changes that seem to be against the grain of a very, very established industry, and a protected one at that, you have to take one step at a time. If this is a miniscule step, then let's take that miniscule step, it is a step in the direction of addressing the velocity and the wrath of one of the most powerful and lucrative lobbies that exists today. Just look at the extent of the subsidy, the real paradoxical subsidy, that says, we will give you all of these billions of dollars and in turn, we know that you are causing an increase in the cancer that is devouring many of our youngsters and the population in total. I urge you to take that first step.

Representative Racine is alluding to \$5,000 and \$2,500, that is nothing, absolutely nothing. They will look you right in the eye if they had to do that and it wouldn't make one bit of difference to them as far as obliging them or allowing them to say well, you have restricted us. Hogwash. Pass the bill, give us a chance to start. This is just registration. I urge you to support the Minority Report.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: This bill is just not an attempt to require registration. If you take a look at the bill, it requires that the person specifically register the location and times where these distributions will take place, the product that will be distributed and the names of the people who will be distributing the products. It basically requires the tobacco company to say when, where, how, what if, the whole gambit of exactly what they will be doing and when. It is going to cost them, as this bill proposes, \$50 to do it for a three day period, that is a tax, not a registration fee. It is an effort to tax advertising, and as the proponents of this bill have pointed out, they would rather raise it to \$5,000 in an effort to try and deter this practice from taking place.

I am not going to stand here and argue whether the practice is right or wrong but I don't think this bill could be any more restrictive, if it was written by the KGB itself. The Statement of Fact says the whole purpose of the bill is so the Bureau of Health can monitor how this distribution is going to take place. What are we going to do, are we going to have somebody standing on a corner with sunglasses, a little earpiece, call back the DHS and say, "They are handing the cigarettes out now." Are they going to be watching who they are handing the cigarettes out to? This is absolutely ridiculous.

As Representative Allen very carefully pointed out, this is very poor legislation that, in my opinion, sets a very dangerous precedent. I urge you to accept the Majority "Ought Not to Pass" Report.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to answer the good gentleman, but I am going to answer a couple of other questions. One is, there is an Attorney General's opinion and I got that from the Attorney General's Office this morning. I also have a letter that came from the Maine Medical Association stating what the Attorney General has said. He said, "General consensus that the federal provision should not hold back the committee from considering this bill because they have discussed preemption this year and they have said there is no preemption." If so, then why have many, many magazines preempted advertising for tobacco? Here are some of them -- Reader's Digest, The New Yorker, National Geographic, Good Housekeeping, Downeast Magazine, to name a few, and there is a list.

As far as the ski areas -- more kids ski than adults, and why should one child be subjected to cigarettes? Would you subject them to a free sample of alcohol or drugs? Would you want them to be addicted to something that is so easy to become addicted to -- nicotine? I am sorry that some of you are against this bill and you think it is so restrictive. It is a tiny little step, a tiny little step for prevention. It save lives, it saves them from getting cancer in their later life. We have many problems in this state dealing with cancer.

I have two questions I would like to pose through the Chair. Why are the tobacco companies afraid to let us know why they are handing out free samples? Number two, why do they want to hide where they are giving them out?

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

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I do not have the answer and I would think it is a more appropriate question for the tobacco companies.

However, I would like to respond and apologize to the House for saying there was no Attorney General's opinion. I should have said, to my knowledge, I have not been given any written communication from the Attorney General's Office with regards to this issue. All the communications from the Attorney General's Office were, in fact, to our committee, verbal. Basically, what he said is, you can go ahead and consider this issue if you want, the consequences are apparent. If it is a health issue, it is preempted from the federal government. He didn't say we shouldn't consider it, he didn't say it was not under these restrictions, what he said was, we could go ahead and consider it. We did consider it, and as Representative Sheltra told you, there was a Unanimous "Ought Not to Pass" Report. It was then reconsidered by a minority of our members to sign the bill out. That is why we are debating it here. If I led you to believe there was no written opinion, I should have corrected myself, and in fact said, to my knowledge, to this point in time, I have not seen a written opinion from the Attorney General's Office.

Again, I would like to urge you to vote against this bill. I think it is poor public policy. I think it misses the mark. I think it is fraught with errors and I think we will be in court.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti. Representative ALIBERTI: Mr. Speaker, I request a roll call.

Ladies and Gentlemen of the House: The statement that it was a Unanimous Report is one that requires explanation. As you look at this, do you know which side says what? As you look at the brochure, it is confusing. All my statements in committee were against anything that encouraged smoking, additional smokers. I made that quite clear, and then when the time for the jacket, my own fault, I thought I was signing on one side, and if you look at the jacket, you will see that my name was crossed out once I found out that the position that I defended was not the position that I signed for. That could confuse you too.

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 Buxton, Representative Kimball.

Representative KIMBALL: Mr. Speaker, Ladies and Gentlemen of the House: I would also like to urge you to reject the pending motion and support the "Ought to Pass" as amended by Amendment "A."

I was originally the sponsor of another piece of legislation this year that would have dealt with cigarette advertising in the State of Maine. One of the questions that came up was on the federal preemption. If, what I am hearing in this debate is true, and that there is reason to believe that the federal preemption as determined by the Attorney General is not true, then I would highly suggest and would support this Committee Amendment "A."

I will tell you why. Basically when it comes down to this type of advertising, and I said this in committee and I think it is important for all of you to know, that the distribution of a product during an event is a very, very powerful tool. What happens is there is an association made between the type of event, in this case some of the examples that have been given was downhill skiing, the race at Oxford Plains -- what happens is the event becomes associated in peoples' minds with what happens at the event -- in this case, the distribution of tobacco products. I think that it is a very subtle way, ladies and gentlemen of the House, of making an impression on children, adolescents in particular as has been mentioned. If that preemption isn't there, I strongly urge you to support Committee Amendment "A."

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Allen of Washington that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 100

YEA - Allen, Anderson, Armstrong, Bailey, Begley, Bickford, Bost, Bragg, Carroll, Cashman, Chonko, Clark, M.; Coles, Conley, Cote, Crowley, Davis, Diamond, Erwin, P.; Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Hale, Hepburn, Hickey, Higgins, Hogle, Holloway, Holt, Ingraham, Jackson, Jacques, Joseph, Kilkelly, Lacroix, LaPointe, Lawrence, Lebowitz, Macomber, Marsano, Martin, H.; McGowan, McHenry, McPherson, McSweeney, Michaud,

Moholland, Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Norton, Paradis, P.; Parent, Paul, Pouliot, Priest, Rand, Reed, Ridley, Rotondi, Ruhlin, Salisbury, Scarpino, Seavey, Small, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Swazey, Tamaro, Taylor, Telow, Tracy, Vose, Walker, Warren, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton.

NAY - Aliberti, Anthony, Baker, Bott, Boutillier, Brown, Callahan, Carter, Clark, H.; Curran, Dellert, Dexter, Dore, Duffy, Dutremble, L.; Foster, Gurney, Gwadosky, Handy, Hanley, Harper, Hichborn, Hussey, Jalbert, Ketover, Kimball, Lisnik, Look, Lord, MacBride, Mahany, Manning, Matthews, K.; Mayo, Melendy, Mills, Murphy, E.; Nicholson, Nutting, O'Gara, Paradis, E.; Paradis, J.; Perry, Pines, Racine, Reeves, Rice, Rolde, Rydell, Sheltra, Sherburne, Simpson, Smith, Soucy, Stevens, P.; Tardy, Thistle, Tupper, Weymouth.

ABSENT - Hillock, Mitchell, Richard, The Speaker. Yes, 86; No, 59; Absent, 4; Vacant, 2; Paired, 0; Excused, 0.

86 having voted in the affirmative and 59 in the negative with 4 being absent and 2 vacant, the motion to accept the Majority "Ought Not to Pass" Report was accepted in concurrence.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Bill "An Act to Fight Illegal Drug Use" (H.P. 1052) (L.D. 1415)

TABLED - June 2, 1987 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be engrossed.

Representative Paradis of Augusta offered House Amendment "A" (H-234) and moved its adoption.

House Amendment "A" (H-234) was read by the Clerk and adopted.

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

The Chair laid before the House the following matter: An Act to Create Minimum Safety Standards for Firefighters (H.P. 1234) (L.D. 1686) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Smith of Island Falls, under suspension of the rules, the House reconsidered its action whereby L.D. 1686 was passed to be engrossed.

Representative Priest of Brunswick offered House Amendment "B" (H-235) and moved its adoption.

House Amendment "B" (H-235) was read by the Clerk.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: The purpose of this amendment is a technical amendment. Essentially, its purpose is to ensure that rescue departments are not included within the bill. There was a possibility that they might be considered to be within the bill, that was not the intent of the bill which was to cover fire departments. This clarifies that. It also removes the reference to AEROMED, that is a technical term which may change over time and is not necessary. This is strictly technical and I would urge its adoption.

Subsequently, House Amendment "B" (H-235) was adopted.

Representative Smith of Island Falls offered House Amendment "A" (H-225) and moved its adoption.

House Amendment "A" (H-225) was read by the Clerk.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I have four volunteer fire departments in my district and we are very much concerned about the bill. Under the present rules, protective equipment is required for at least two firefighters. That does not mean to say that we do not have more but I do not wish to have this bill require every volunteer firefighter to be fully equipped with all the equipment. A volunteer fire department have many that do not enter buildings, they might be taking care of the intake at a farm pond, and he certainly doesn't need all the equipment that is necessary. I, therefore, hope that you would go along with this amendment.

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

Representative RUHLIN: Mr. Speaker, I would like to ask a question through the Chair.

Does this amendment make it allowable for volunteer fire departments to limit the numbers of uniforms to two, regardless of personnel in that volunteer fire department? I would like to ask the sponsor of the amendment that question.

The SPEAKER: Representative Ruhlin of Brewer has posed a question through the Chair to Representative Smith of Island Falls, who may respond if he so desires.

The Chair recognizes that Representative.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: The amendment is exactly as the rules are today. They shall provide at least two firefighters with all the equipment. That is what the amendment does. That does not mean to say they cannot supply all. Many of the men are buying their own equipment and, therefore, if you are going to mandate that all the equipment be furnished, then I would suggest to you to bring up the money with it.

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I think what we have before us is a perfectly good bill that has been worked on very hard in committee. This bill takes the firefighters of this state, gives standards for training. What this amendment, as I understand the amendment, will do is say, we will train you in a life threatening situation and after giving you this training, we will not provide you necessarily with a uniform. When you get to a firefighting situation that may endanger somebody's life, you may not have the equipment that you have been trained to use. I say that this amendment takes a perfectly good bill that has been worked on very hard and is safety oriented and makes the bill meaningless. Therefore, Mr. Speaker, I move the indefinite postponement of this amendment.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: The amendment, as I understand it, only requires volunteer fire departments, not professional fire departments, to furnish two sets of safety equipment to their members. That does not, obviously, prohibit volunteer fire departments from having additional sets which may be furnished by the individual members. There still is a requirement in

the bill which is left intact that, when firefighters are exposed to hazardous conditions, they must have the equipment which is necessary to protect them from those hazardous conditions. All this amendment does, as I understand it, is simply say that the volunteer fire departments only have to furnish two complete sets. Obviously, anyone who is sent into a fire, into a hazardous situation, has to be adequately protected. That is still there and that was (frankly) the key for me in saying that I could support the amendment.

I have talked to members of my committee and I think members of the committee are also in favor of the amendment.

I share Representative Ruhlin's concerns but I think that the amendment adequately meets those.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Representative Ruhlin, this is a good bill, it is an excellent bill. We worked hard in committee on it and the only thing that House Amendment "A" does is clarify the bill of what our intentions were. Therefore, I urge you to support Representative Smith's amendment and make this a better bill than we came out of committee with.

Representative Racine of Biddeford requested a division.

The SPEAKER: The Chair will order a vote. The pending question is the motion of Representative Ruhlin of Brewer that House Amendment "A" be indefinitely postponed. Those in favor of that motion will vote yes, those opposed will vote no.

A vote of the House was taken.

7 having voted in the affirmative and 110 in the negative, the motion to indefinitely postpone did not prevail.

Subsequently, House Amendment "A" was adopted.

The Bill passed to be engrossed as amended by House Amendment "B" (H-235) and House Amendment "A" (H-225) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Amend the Duties of the Commissioner of Labor (H.P. 1199) (L.D. 1634) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Diamond of Bangor, tabled unassigned pending passage to be enacted.

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

PASSED TO BE ENGROSSED

Bill "An Act Relating to Construction Standards for Access for Handicapped Persons to Public Facilities" (H.P. 1263) (L.D. 1727)

RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (Emergency) (H.P. 1264) (L.D. 1728)

Bill "An Act Relating to Determination of Benefit Claims under the Unemployment Compensation Law" (H.P. 1267) (L.D. 1730)

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

SECOND READER  
LATER TODAY ASSIGNED

Bill "An Act to Establish a Moratorium on Land Leases Affecting Tree Growth Classification" (Emergency) (H.P. 743) (L.D. 1006)

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

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

ORDERS OF THE DAY  
TABLED AND TODAY ASSIGNED

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

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (5) "Ought to Pass" - Abstained (1) - Committee on State and Local Government on Bill "An Act to Provide for Election of the Public Advocate" (H.P. 524) (L.D. 708)

TABLED - June 2, 1987 by Representative CARROLL of Gray.

PENDING - Motion of same Representative to accept the Minority "Ought to Pass" Report.

Subsequently, the Minority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading later in today's session

MATTERS PENDING RULING

Bill "An Act to Authorize the Increase of the Maximum Speed Limit to 65 Miles Per Hour" (H.P. 547) (L.D. 734)

TABLED - June 2, 1987 by Speaker MARTIN of Eagle Lake.  
PENDING - Ruling of the Chair.

The SPEAKER: The Chair would rule that House Amendment "A" as presently drafted is germane since it deals with the speed limit on the same area that would be affected by the raise in the speed limit. It also deals with the issue of establishing fines which would then, obviously, be increased as a result of the use of radar and, therefore, the Chair would rule that it is germane. If, on the other hand, the amendment had dealt with the entire state, the amendment would not have been germane.

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

Representative MOHOLLAND: Mr. Speaker, I move the indefinite postponement of House Amendment "A" to Committee Amendment "A".

Mr. Speaker, Ladies and Gentlemen of the House: The legislature killed this bill two years, which is now offered as an amendment. It was a bad bill then, it is a bad bill now. This was too much of a change to be offered as an amendment. This should be presented as a separate bill and have a proper hearing before the committee.

I would like to say, when you vote, I hope you vote with me to kill the amendment today.

The SPEAKER: The Chair recognizes the Representative from Canaan, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank you Mr. Speaker for the ruling. As always, it is fair and quick, and I appreciate that.

I would urge you to support the motion from the Representative from Princeton, Representative Moholland, to defeat this amendment. Those of us who have sat in this body for the past few years have seen this bill come down in the form of legislation and I do believe that it is an amendment of such great magnitude and of such great consequence that we should have this proposal in a public hearing and an

L.D. before the Joint Standing Committee on Transportation.

I would hope that with the same effort that we passed this bill yesterday that we would defeat this amendment today.

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

Representative BOTT: Mr. Speaker, Men and Women of the House: I would just like to concur with the two previous speakers. I think this is a very far-reaching amendment and one that should be carefully considered by the members of this body who have expertise in the area of transportation-related issues.

There are a number of concerns that come to mind in just briefly looking at this amendment. First and foremost, how would our state police be able to enforce provisions such as this because my understanding is that a person possessing a radar device would not be in violation of the law unless they were traveling on the Interstate and the Maine Turnpike. If that is the case, what would happen to the individual who was using the radar detector on a road other than those two roads and goes onto the turnpike? It won't take too long for you to figure that there are some major problems with this amendment that would really have to be addressed with a public hearing and through legislation. I would concur with the two previous speakers and urge that you indefinitely postpone this amendment.

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you would not support the pending motion to indefinitely postpone the amendment. The reason that I say that is that, every year when this bill has come up, while I have been a member of this legislature, I was appalled at the vote. We have laws on our books to restrict the speed of vehicles, yet we are telling people, you can go out and buy a detector to be able to break those laws. That does not make any sense to me whatsoever. If we are going to increase the speed limit on the Maine Turnpike, then we should prohibit the use of radar detectors. Radar detectors are being purchased primarily to observe state troopers that are out there with their radar guns. The only reason why you have a radar detector is to be able to break the law. Let's not be hypocritical about this. Let's pass this amendment today.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to urge you not to adopt this amendment. Yesterday, I spoke in favor of not raising the speed limit. I still believe that is the course that I would like to see taken. If the gentleman from Island Falls had wanted to have been involved in this process, we have been in the committee for the past two months discussing this very issue, if he felt that this was the proper way to go, I think he should have been there.

I hope you will not support this amendment.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I do believe this is a bill of great magnitude or an item of great magnitude but we didn't raise the speed limit two years ago and we didn't raise it four years ago, we are raising it now. Now is the time to address it.

We have troopers out there that are supposed to be doing their jobs and here we are giving allowance for radar detector systems so they cannot do their jobs. Should we take the troopers off the roads and let them do something else? Because everyone might as well go as fast as they feel safe and what is a safe speed?

You know, sometimes I feel like going a little faster than what the law allows and I probably do. But there are many times when a car goes by me and I say, well, if he can do it, I can. I wonder how many others might fall in line behind that fast car and say, I am going to follow him and when he gets caught, then I will slow down.

I am sure you all know that when you get in a line of traffic and there is only one trooper running the radar system and there are three cars going 70 miles an hour, he will pick off the last car and that last car could be you. The only reason that front car went more than the speed limit, he probably was running a radar detector, so he gets away free and he picks off the last car. He cannot stop all three.

I would hope now that we have a chance to address this issue that we would do so.

What is the purpose of the radar detectors anyway? What useful purpose are they? I really find none, they are only a means to break the law.

We are dealing with just 95, the Interstate system. I am sure that with many of our other roads, you cannot drive even the given speed limit because of their condition. I am not worried about those but when I go down 95 and there is a big truck on my tail, I am quite concerned because I am going 55 and he is bearing down on me and in the other lane, there might be already somebody passing, I get quite concerned. I think 65 is plenty fast enough and, if we are going to hold it at that, then we have got to have the means to do it.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: There are all kinds of things that I could say to refute the arguments that have been put forth against this amendment. I think I will limit my discussion to one area of debate that we heard yesterday when we were debating the issue of the 65 mile an hour speed limit. We were told that 65 was going to mean 65 and anybody who exceeded 65 was going to have to pay the price. I urge this House to adopt this amendment to give our law enforcement officials the ability to make 65 mean 65, so that our highways will not be as unsafe as I fear they would be. I urge this House to vote against the pending motion and adopt this amendment.

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

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: I think that Representative Macomber was correct. I think that this should have been discussed in committee and I can't help but feel that we have an ulterior motive here with someone trying to kill the bill. I wish you would certainly consider voting against this amendment.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I want to make it perfectly clear my intention is not to kill this bill. I voted for the 65 mile speed limit. We talked about a hearing process, the hearing is now, we are all in on it right now. We all have committees to attend to during the regular session and we all don't get a chance to go to them. You all understand that, I am

sure. I think the hearing is now, the speed limit has been raised, and I think we should try to keep it at the limit that we have raised it to.

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

A vote of the House was taken.

Representative Reeves of Pittston 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 Moholland of Princeton that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 101

YEA - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Baker, Bickford, Bost, Bott, Boutilier, Bragg, Callahan, Carter, Cashman, Chonko, Coles, Conley, Cote, Curran, Dellert, Diamond, Duffy, Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Gurney, Gwadosky, Hale, Hanley, Hepburn, Hichborn, Hickey, Hوجلund, Holloway, Hussey, Jacques, Jalbert, Joseph, Ketover, Lacroix, LaPointe, Lebowitz, Look, Macomber, Manning, Marsano, Martin, H.; Matthews, K.; McGowan, McHenry, McPherson, McSweeney, Moholland, Murphy, E.; Nadeau, G. G.; Nadeau, G. R.; Norton, Paradis, J.; Parent, Pines, Priest, Rand, Reed, Rice, Rotondi, Ruhlin, Scarpino, Sheltra, Small, Stanley, Stevens, A.; Stevens, P.; Strout, B.; Tammaro, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Whitcomb, Zirkilton.

NAY - Begley, Brown, Carroll, Clark, H.; Clark, M.; Davis, Dexter, Dore, Dutremble, L.; Gould, R. A.; Handy, Harper, Higgins, Holt, Ingraham, Kilkelly, Lawrence, Lisnik, Lord, MacBride, Mahany, Mayo, Melendy, Michaud, Mills, Murphy, T.; Nicholson, Nutting, O'Gara, Paradis, E.; Paradis, P.; Paul, Perry, Pouliot, Racine, Reeves, Ridley, Rydell, Salsbury, Seavey, Sherburne, Simpson, Smith, Soucy, Stevenson, Strout, D.; Swazey, Tardy, Weymouth, Willey, The Speaker.

ABSENT - Crowley, Hillock, Jackson, Kimball, Mitchell, Richard, Rolde.

Yes, 91; No, 51; Absent, 7; Vacant, 2; Paired, 0; Excused, 0.

91 having voted in the affirmative and 51 in the negative with 7 being absent and 2 vacant, the motion did prevail.

Subsequently, Committee Amendment "A" was adopted.

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

The SPEAKER: By unanimous consent, unless previous notice is given to the Clerk of the House or the Speaker of the House by some member of his or her intention, the Clerk is authorized today to send to the Senate, 30 minutes after the House recesses, all matters passed to be engrossed in concurrence and all matters that require Senate concurrence. After such

matters have been sent to the Senate by the Clerk, no motion to reconsider will be allowed.

On motion of Representative Carter of Winslow,  
Recessed until 4:45 in the afternoon.

(After Recess 4:45 p.m.)

The House was called to order by the Speaker.

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

ORDERS OF THE DAY

HELD BILL

An Act Relating to Catering Services under the Liquor Law (S.P. 569) (L.D. 1702)  
- In House, Passed to be Enacted on June 3, 1987.  
HELD at the request of Representative PRIEST of Brunswick.

On motion of Representative Priest of Brunswick, the House reconsidered its action whereby L.D. 1702 was passed to be enacted.

On further motion of the same Representative, the House reconsidered its action whereby L.D. 1702 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-241) and moved its adoption.

House Amendment "A" (H-241) was read by the Clerk.

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

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: I just want to briefly explain to the House what this amendment is. The amendment is to the catering services bill involving the amount of food sales, annually, that catering services have to do. We decided unanimously in the committee to divide it up amongst the population of the municipality where the catering service was established. We think now, after looking at this, that there ought to be a category for very small towns and that is what we have done. We have talked with several members of communities about this and they have no problem. I would move adoption.

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

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

What if a town had a population of 6,000?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: If you had a population of 6,000, it would fall in the category above the 5,000 or less population and that category is set forth in the bill.

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

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

There is a population given of 7,500 to 20,000 and the next category drops down to 5,000, I believe, and I was wondering, is there is a gap between there that is not covered?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: Obviously, we could have divided indefinitely the amount of food sales that we are talking about. It seems to be small enough until you get to the very small towns and that most catering services will be able to meet our concerns. It was the very small towns, which would not be able to meet that annual sales figure, and that is why the amendment establishes the 2,500 or less.

The point that has been raised is a good one and there may be a gap, which is due to a typographical error. What I would like to do is have someone table this, please.

On motion of Representative Diamond of Bangor, tabled pending adoption of House Amendment "A" and later today assigned.

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

PETITIONS, BILLS AND RESOLVES

REQUIRING REFERENCE

The following Bills 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:

Agriculture

Bill "An Act to Better Accommodate Over-order Milk Pricing" (H.P. 1274) (Presented by Representative WHITCOMB of Waldo) (Cosponsors: Representatives SHERBURNE of Dexter, PARENT of Benton and NUTTING of Leeds) (Governor's Bill)

Ordered Printed.

Sent up for Concurrence.

Bill "An Act to Improve Enforcement Procedures under the Land Use Regulation Law" (H.P. 1273) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Representatives DEXTER of Kingfield, LORD of Waterboro and MICHAUD of East Millinocket) (Governor's Bill)

(Committee on Energy and Natural Resources was suggested.

Under suspension of the rules and without reference to any committee, the Bill was read once and assigned for Second Reading later in today's session.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative DAVIS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds to the Department of Mental Health and Mental Retardation to Assist the Millinocket Areas with Mental Health, Home Health and Homemaker Services" (H.P. 490) (L.D. 660) reporting "Ought Not to Pass"

Representative McGOWAN from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide a Treatment Team for the Home-based Family Services Program" (H.P. 345) (L.D. 444) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative DAVIS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$2,000,000 for Removal of Commercial Underground Steel Tanks Storing Petroleum Products" (H.P. 640) (L.D. 863) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide for Continued Treatment and Support of Incest Victims and Survivors" (Emergency) (H.P. 584) (L.D. 795) reporting "Leave to Withdraw"

Representative LISNIK from the Committee on Appropriations and Financial Affairs on Bill "An Act to Partially Fund Housing for the Mentally Retarded" (H.P. 391) (L.D. 525) reporting "Leave to Withdraw"

Representative LISNIK from the Committee on Appropriations and Financial Affairs on Bill "An Act to Assure an Equitable Level of Mental Health Services in York County" (H.P. 576) (L.D. 774) reporting "Leave to Withdraw"

Representative MCGOWAN from the Committee on Appropriations and Financial Affairs on Bill "An Act to Prevent Inappropriate Institutionalization of Children" (H.P. 283) (L.D. 366) reporting "Leave to Withdraw"

Representative NADEAU from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Employability of Persons with Long-term Mental Illness" (H.P. 170) (L.D. 214) reporting "Leave to Withdraw"

Representative NADEAU from the Committee on Appropriations and Financial Affairs on Bill "An Act to Sustain Community Services for the Mentally Ill" (H.P. 233) (L.D. 301) reporting "Leave to Withdraw"

Representative FOSTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Regarding Day Treatment Services to Emotionally Disabled Children" (H.P. 201) (L.D. 253) reporting "Leave to Withdraw"

Representative HIGGINS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Family Support Services to Maine Families who Choose to Care for their Developmentally Disabled Children at Home" (H.P. 702) (L.D. 943) reporting "Leave to Withdraw"

Representative HIGGINS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funding for an Honors Seminar Program to Train Secondary School Teachers in the Humanities" (H.P. 696) (L.D. 937) reporting "Leave to Withdraw"

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

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Encourage Investment in the Development of Potato Varieties" (H.P. 678) (L.D. 911) which was passed to be engrossed as amended by Committee Amendment "A" (H-183) in the House on May 28, 1987.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-183) as amended by Senate Amendment "B" (S-123) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Later Today Assigned

RESOLVE, Concerning the Testing of School Buildings for Radon (Emergency) (H.P. 1148) (L.D. 1563) which was passed to be engrossed as amended by Committee Amendment "A" (H-218) in the House on June 2, 1987.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-218) and Senate Amendment "A" (S-122) in non-concurrence.

On motion of Representative Manning of Portland, tabled pending further consideration and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 492) (L.D. 1500) Bill "An Act to Amend the Law Concerning Activation of State Military Forces by the Governor in Human Health Emergencies" Committee on State and Local Government reporting "Ought to Pass"

(S.P. 515) (L.D. 1558) Bill "An Act to Clarify Capital Reimbursements" Committee on State and Local Government reporting "Ought to Pass"

(H.P. 115) (L.D. 140) Bill "An Act to Provide Funds for the Establishment of the Community Service Center for the Deaf and Hearing Impaired" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-236)

(H.P. 430) (L.D. 575) Bill "An Act to Provide Funds for Interpreting Services for the Deaf and Hearing Impaired Persons in the Post-secondary and Adult Education Programs" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-237)

Under suspension of the rules, Second Day Consent Calendar Notification was given, the Senate Papers were passed to be engrossed in concurrence and the House Papers were passed to be engrossed as amended and sent up for concurrence.

PASSED TO BE ENGROSSED

Bill "An Act to Provide for Election of the Public Advocate" (H.P. 524) (L.D. 708)

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

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Bickford.

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

I rise this afternoon in opposition to L.D. 708. I do so, not only as a member of the State and Local Government Committee, who signed this out of our committee with a Majority "Ought Not to Pass," but also as a concerned Representative who strongly fears that this bill will create the situation which Representative Baker, with all good intentions, seeks to avoid.

Today, we run the risk of becoming involved in a battle of our constitutional branches of our government. It is too easy to sit back and make this an "us" versus "him" argument, the Executive Branch against the Legislature. Much stronger than that, we have him in our home court. This afternoon's match is more delicate than the Boston Celtics at the Boston Gardens so let's step back for a moment and look at exactly what this bill does.

This bill takes the appointment of the Public Advocate away from the Governor of the State of Maine and places it with us, the members of the legislature. We, the voice of the people, will elect a Public Advocate in the same manner, as the Statement of Fact points out, as the State Auditor. The sponsor tells us that this makes the position "less political." The Governor, however, is the only person in the entire State of Maine, except for our U.S. Senators, who are elected directly by all people. To be a Governor of the State of Maine, an individual must not only appeal to the machine tender on a paper machine in Jay, Rumford, Winslow or the potato farmer in Aroostook County or the clam digger in Jonesport or the banker in Portland. No, the Governor, to be the successful candidate must represent all of the people and represent the ideas of the majority of the people of the state. To be a successful Governor, he must continue to listen to the citizens of Maine and to act in a manner which meets their approval throughout his day's in office. The Governor speaks for all of Maine.

We, ladies and gentlemen, were sent here from particular towns and municipalities. We represent and are accountable to only a microcosm of what our Governor is. As in the basic foundation of the people's legislature of which I am most proud to be a member, we are first and foremost concerned with the well being of the people back home.

My first obligation is to the people of Jay, Canton and Peru. Likewise, from what I have observed over the days of my service, you too, are dedicated to effectively expressing the views of the folks back home.

Although we often seek to balance the interests of our districts with a greater interest of the State of Maine, our first loyalty is to represent our areas views and opinions. The Governor, on the other hand, speaks for all. His primary responsibility in office is to balance the interest of all citizens of Maine and our Constitution holds him directly accountable to that constituency.

It seems only logical that the Public Advocate, who is entrusted to represent the interests of all the citizens of Maine, should be appointed by our Governor. In addition to this, my fellow Representatives, is my dedication to equality and fairness. I will not be so naive as I speak before you to say that Representative John Martin and Representative Gary Bickford speak with the same voice before this body. Representative Martin is the Speaker of the House and with the position of Speaker, as with the position of Committee Chairman, with length of service, comes greater privileges and more influence, not necessarily de jure but most necessarily de facto. It is a basic fact that some of us sitting here today can direct policy more noticeable than others. It is with this concern that I cannot understand how this makes the Office of Public Advocate less political and things do not necessarily turn out by the will of the people. I only cite this bill as an example. The State and Local Government Majority, and I repeat Majority Report, says that this bill should not become law. However, this bill is now before us, having had its first reading and the Minority "Ought to Pass" Report accepted.

Ladies and gentlemen, I am opposed to L.D. 708 because it removes an appointive from the people's representative who is most qualified in his constitutional capacity to make the appointment of the Public Advocate. Also, I fear by involving 186 individuals acting as head of state, we will make the process more political than it is or should be. I

urge each of you to vote against the acceptance of the "Ought to Pass" Report and to support my motion to indefinitely postpone this bill and all its accompanying papers.

Mr. Speaker, I also request a roll call.

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: First let me say a little bit about the Public Advocate's Office -- it was created by an act of the legislature and I believe that was in 1982. I opposed the creation at the time and I will go into that a little later. However, the Public Advocate's Office was created by this body and it was created to assure the public that there would be a response to the pressures brought upon the Public Utilities Commission by the utilities. Over the years, we have expanded the role of the Public Advocate so that, not only does it advocate in front of the PUC but it also advocates in front of the insurance board in the areas of Workers' Compensation and there have been attempts to make the Public Advocate advocate before the Maine Milk Commission.

I don't believe I ever claimed that this would make the office less political because the Public Advocate is a political position, it is a political appointment. The Governor makes the appointment political and the legislature makes the appointment political. The question that has been going on in my mind for the past six years, and I have been on the Utilities Committee as long as we have had a Public Advocate, and I have had a long time to work with the Public Advocate, -- the question has been on my mind -- is that how can you have an appointment that is made by the Executive Branch adequately advocate in front of Commissioners who are appointed by the Executive Branch and the Insurance Commission which is appointed by the Executive Branch. I felt that there is a need to have the Legislative Branch make that appointment and you would have a greater balance of powers.

I was talking with somebody out in the hallway and they told me that when this bill was first being kicked around, it was suggested that it perhaps be put into the Attorney General's Office. That is probably not a bad idea. If I thought we were really going to get some great support around here, I would say, let's get this bill in a position to do that. The Public Advocate's Office, right now, is understaffed, there is a position that needs to be filled, the position has been vacant for about a year. I would like to see some more response on this in terms of this office.

In terms of who we represent, I would like to address that point. It is true that the Governor was elected by the majority of the people but that is also true for the majority of the Legislative Branch. We also are elected by the majority of the people. While each one of us may have our individual concerns from our individual districts, when it comes time to acting on various issues, there are times when we put aside those individual concerns and we act for the general well being of the entire state. There is no reason to believe that the Legislative Branch, when it comes time to make a decision, as we do for the Attorney General, the State Treasurer and the Auditor, would not make a similar decision for the Public Advocate. The majority of us do represent a broad constituency, represent many different points of view and different political parties. Therefore, the Legislative Branch is just as responsive to the will of the people as the Executive Branch.

I find some of this argument somewhat funny in many respects because, if we were to look at the



government across the border from us, we would find that their ministers are elected representatives of the people. There hasn't been any terrible consequences as a result of that. I happen to believe that there is a need to strengthen some of the functions of the Legislative Branch of government. I don't think that it would be a very bad thing to do. After all, we are only here part-time; the other branch is here all the time.

I think that the Legislative Branch is quite capable of making a decision and that, by having a Public Advocate appointed in some capacity, elected by this branch of government, that it would be more effectively advocating for people when it advocates in front of gubernatorial appointed positions. That is why I sponsored the bill.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I, too, was here when they created the Office of Public Advocate. I was opposed to it at that time. I was opposed because I felt that it was appointed by the Governor and, if it was not doing what the Governor wanted, he would be relieved. It is that simple. So, how could a man be a Public Advocate -- only in Maine. I would like this bill to say get rid of it completely because it is not appointed properly but I do believe if it was done by the legislature, it would be more difficult to dismiss him. The way it is now, the Governor appoints him and, if he is not doing exactly what the Governor wants, I am sure he could be easily dismissed.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Jay, Representative Bickford, that L.D. 708 be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 102

YEA - Anderson, Armstrong, Bailey, Begley, Bickford, Bott, Boutillier, Bragg, Callahan, Crowley, Curran, Davis, Dellert, Dexter, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hichborn, Higgins, Holloway, Hussey, Ingraham, Lawrence, Lebowitz, Look, Lord, MacBride, Martin, H.; Matthews, K.; McPherson, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Norton, O'Gara, Paradis, E.; Pines, Reed, Rice, Salsbury, Scarpino, Seavey, Sherburne, Small, Stanley, Stevens, A.; Strout, B.; Strout, D.; Taylor, Tupper, Webster, M.; Wentworth, Whitcomb, Willey, Zirkilton.

NAY - Aliberti, Allen, Anthony, Baker, Bost, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Diamond, Dore, Duffy, Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hepburn, Hickey, Hogle, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Macomber, Mahany, Manning, Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Nutting, Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pouliot, Priest, Racine, Rand, Reeves, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Soucy,

Stevens, P.; Swazey, Tamaro, Tardy, Telow, Thistle, Tracy, Vose, Walker, The Speaker.

ABSENT - Hillock, Jackson, Kimball, Marsano, Richard, Stevenson, Warren, Weymouth.

Yes, 62; No, 79; Absent, 8; Vacant, 2; Paired, 0; Excused, 0.

62 having voted in the affirmative and 79 in the negative with 8 being absent and 2 vacant, the motion did not prevail.

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

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative VOSE from the Committee on Utilities on Bill "An Act to Exempt the York Water District from Payment for Certain Improvements" (H.P. 1182) (L.D. 1612) reporting "Leave to Withdraw"

Representative MICHAUD from the Committee on Energy and Natural Resources on Bill "An Act to Strengthen the Subdivision Laws" (H.P. 449) (L.D. 604) reporting "Leave to Withdraw"

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Provide a Comprehensive Growth Management Plan for the State" (H.P. 955) (L.D. 1284) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(H.P. 808) (L.D. 1082) Bill "An Act Relating to Reimbursement of Counties for Costs Associated with Operations of the Court System" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-239)

(H.P. 1208) (L.D. 1648) Bill "An Act Relating to Powers of the Board of Trustees of the Maine Maritime Academy and to Authorize Conferral of the Master of Science Degree in Maritime Management" Committee on Education reporting "Ought to Pass"

(H.P. 1087) (L.D. 1478) Bill "An Act to Improve the Method of Calculating Excise Taxes in Fire Control" Committee on Taxation reporting "Ought to Pass"

(H.P. 35) (L.D. 36) Bill "An Act to Make Substantive Corrections in the County and Municipal Laws" (Emergency) Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-242)

Under suspension of the rules, Second Day Consent Calendar Notification was given, the House Papers were passed to be engrossed or passed to be engrossed as amended and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: RESOLVE, Concerning the Testing of School Buildings for Radon (Emergency) (H.P. 1148) (L.D.

1563), (Passed to be Engrossed as amended by Committee Amendment "A" (H-218) in the House on June 2, 1987) which was tabled earlier in the day and later today assigned pending further consideration.

(Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-218) and Senate Amendment "A" (S-122) in non-concurrence.)

On motion of Representative Manning of Portland, the House voted to recede.

Senate Amendment "A" (S-122) was read by the Clerk and adopted.

Representative Manning offered House Amendment "A" (H-238) and moved its adoption.

House Amendment "A" (H-238) was read by the Clerk and adopted.

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

(Off Record Remarks)

The House was called to order by the Speaker.

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

CONSENT CALENDAR

First Day

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

(S.P. 94) (L.D. 241) Bill "An Act to Increase the Appropriations to the Maine Student Osteopathic Loan Program" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-126)

Under suspension of the rules, Second Day Consent Calendar Notification was given, the Senate Paper was passed to be engrossed as amended in concurrence.

SECOND READER

LATER TODAY ASSIGNED

Bill "An Act to Improve Enforcement Procedures under the Land Use Regulation Law" (H.P. 1273) (L.D. 1740)

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

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

(At Ease)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 7 were taken up out of order by unanimous consent:

SENATE PAPERS

Ought to Pass in New Draft

Report of the Committee on Business Legislation on Bill "An Act to Amend the Maine Lemon Law" (S.P. 326) (L.D. 954) reporting "Ought to Pass" in New Draft (S.P. 584) (L.D. 1735)

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

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was read the second time and passed to be engrossed in concurrence.

Ought to Pass in New Draft

Later Today Assigned

Report of the Committee on State and Local Government on Bill "An Act Relating to the Administration of the Maine Children's Trust Fund" (S.P. 315) (L.D. 917) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 585) (L.D. 1736)

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

Report was read and accepted, the New Draft read once.

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

Representative Webster of Cape Elizabeth offered House Amendment "A" (H-240) and moved its adoption.

House Amendment "A" (H-240) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: When the Children's Trust Fund was set up two years ago, it came out as a Unanimous "Ought to Pass" Report from the Taxation Committee. At that time, the law that was set up said that the purpose of the Maine Children's Trust Fund was to provide a mechanism for voluntary contributions by Maine taxpayers through an income tax checkoff for funding of programs designed to prevent abuse, neglect and mental illness among Maine children. The Taxation Committee was slightly reluctant to add another checkoff to the Maine Income Tax forms because there was reluctance to clutter up the Maine Tax form with another checkoff. There was also a strong feeling on the Taxation Committee that if, there were to be another checkoff, there could be a no more desirable objective than prevention of child abuse and neglect. So the committee unanimously passed this bill to the House where it was unanimously passed into law.

A year after that, it was discovered that there were some difficulties with the way the trust fund had been set up. It was urged that in addition to the mechanism for voluntary contributions, there was a need to pay the board of directors. There was a need to seek additional grants, there was a need to hire staff, and there was a need for the Children's Trust Fund staff to report back to this legislature.

So with receipts from the trust fund of less than \$70,000, this body appropriated \$42,500 for staff. Since then, they have not received any grants except for the monies that were received through the checkoff, and according to the Law and Legislative Reference Library, we have found no reference to the Maine Children's Trust Fund in the on-line catalog of reports. Since the State Law Library receives all state government publications by law, and adds records for them to the on-line catalog, this is a good indication that no report exists.

It seems to me that we have come to a crossroads with the Children's Trust Fund. If it is going to be in trust for kids, they ought to leave it the way it is. However, there are people here who feel there is a terrible crisis in child abuse and neglect right now and that we cannot afford to have that money sit idle. If that is the case, then we should not wait another day, we should eliminate the staff, send out all the dollars that are in the trust fund right now, and no longer deceive the taxpayers that it will be held in trust.

I propose though that we keep the trust that we have established. This amendment that I have offered simply states that no more than 50 percent of the amount allocated to the trust fund can be spent on operating expenses.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, I move that House Amendment "A" be indefinitely postponed.

Mr. Speaker, Men and Women of the House: Although the cause is worthy and the intent of this amendment I am sure is more than worthy, the actual reality of this amendment, if adopted, would be to cripple the trust fund totally this year and would not allow it ever to dispense the money. The trust fund ran into some difficulties and some problems. The bill that is before us that this amendment is going to be attached to resolves those problems and sets up a mechanism so that grants can be and will be made this year to the community. I would hope that you do not jeopardize that and vote with me to indefinitely postpone this amendment.

Representative Webster of Cape Elizabeth requested a roll call.

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

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

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

ROLL CALL NO. 103

YEA - Aliberti, Allen, Anderson, Anthony, Baker, Bickford, Bost, Boutilier, Callahan, Carroll, Cashman, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Diamond, Dore, Duffy, Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hanley, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, LaPointe, Lisnik, Look, Mahany, Manning, Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; O'Gara, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Priest, Racine, Rand, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Soucy, Stevens, A.; Stevens, P.; Strout, B.; Swazey, Tammaro, Tardy, Telow, Thistle, Tracy, Vose, Walker, Willey.

NAY - Armstrong, Bailey, Begley, Bragg, Curran, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Harper, Hepburn, Hickey, Higgins, Holloway, Ingraham, Lawrence, Lebowitz, Lord, MacBride, Macomber, Martin, H.; Matthews, K.; McPherson, Murphy, E.; Nicholson, Norton, Nutting, Paradis, E.; Parent, Pines, Reed, Rice, Ridley, Salsbury, Scarpino, Seavey, Sherburne, Small, Stanley, Strout, D.; Taylor, Tupper, Webster, M.; Wentworth, Whitcomb, Zirkilton.

ABSENT - Bott, Brown, Carter, Crowley, Dutremble, L.; Hillock, Jackson, Kimball, Marsano, Reeves, Richard, Stevenson, Warren, Weymouth, The Speaker.

Yes, 83; No, 51; Absent, 15; Vacant, 2; Paired, 0; Excused, 0.

83 having voted in the affirmative and 51 in the negative with 15 being absent and 2 vacant, the motion to indefinitely postpone did prevail.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: It was brought to my attention earlier that there was a technical amendment that has to go onto this bill. I would appreciate it if it could be tabled. It is being drafted now.

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

Ought to Pass in New Draft/New Title

Report of the Committee on Taxation on Bill "An Act Establishing a Minimum Amount Above which Liens on Real Estate may be Enforced" (S.P. 182) (L.D. 509) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Tax Liens on Time-share Units Owned by One Person" (Emergency) (S.P. 583) (L.D. 1729).

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

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed in concurrence.

Ought to Pass Pursuant to Joint Order (S.P. 554)

Report of the Committee on Transportation reporting "Ought to Pass" Pursuant to Joint Order (S.P. 554) on RESOLVE, That the Secretary of State Prepare a Revision of the State's Motor Vehicle Laws (Emergency) (S.P. 582) (L.D. 1726).

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

Report was read and accepted, the Resolve read once.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed in concurrence.

CONSENT CALENDAR

First Day

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

(S.P. 421) (L.D. 1301) Bill "An Act Concerning the Boundary Between the Towns of Machias and Machiasport" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-120)

Under suspension of the rules, Second Day Consent Calendar Notification was given, the Senate Paper was passed to be engrossed as amended in concurrence.

The Chair laid before the House the following matter: Bill "An Act Relating to Catering Services under the Liquor Law" (S.P. 569) (L.D. 1702) which was tabled earlier in the day and later today assigned pending adoption of House Amendment "A."

Representative Priest of Brunswick withdrew House Amendment "A."

The same Representative offered House Amendment "B" (H-244) and moved its adoption.

House Amendment "B" (H-244) was read by the Clerk. The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "B" corrects a typographical error which Representative Smith brought to our attention. I now urge its adoption.

Subsequently, House Amendment "B" was adopted. The Bill was passed to be engrossed as amended by House Amendment "B" in non-concurrence and sent up for concurrence.

(Off Record Remarks)

The Chair laid before the House the following matter: Bill "An Act Relating to Adult Education" (H.P. 893) (L.D. 1194) (C. "A" H-201) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative O'Gara of Westbrook, under suspension of the rules, the House reconsidered its action whereby L.D. 1194 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-243) to the Bill and moved its adoption.

House Amendment "A" (H-243) was read by the Clerk and adopted.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Ingraham of Houlton, Adjourned until Thursday, June 4, 1987, at nine o'clock in the morning.

STATE OF MAINE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION  
JOURNAL OF THE SENATE

In Senate Chamber  
Wednesday  
June 3, 1987

Senate called to Order by the President.

Prayer by the Honorable Mary-ellen Maybury of Penobscot.

SENATOR MAYBURY: Let us be in the spirit of prayer. As we gather together this morning, let us be ever mindful of our great responsibilities to all the people of the grand state of Maine. Grant us wisdom to know the issues and courage to stand up for our convictions. We thank You for all You have given us and ask that You sustain us in these last few days of setting policy amongst conflicting views. In Jesus name. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Resolve, Creating a Watershed District Commission  
S.P. 261 L.D. 742  
(H "A" H-180; S "A"  
S-118 to C "A" S-65)

In House, June 1, 1987, FINALLY PASSED.

In Senate, June 2, 1987, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-65) AS AMENDED BY HOUSE AMENDMENT "A" (H-180) AND SENATE AMENDMENT "A" (S-118), thereto.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-65) AS AMENDED BY SENATE AMENDMENT "A" (S-118), thereto in NON-CONCURRENCE.

On motion by Senator TUTTLE of York, the Senate RECEDED and CONCURRED.

Non-concurrent Matter

SENATE REPORTS - from the Committee on ENERGY AND NATURAL RESOURCES on Resolve, Authorizing the Sale of Certain Public Reserved Lands

S.P. 480 L.D. 1443  
(C "B" S-117)

Majority - Ought to Pass as Amended by Committee Amendment "A" (S-116).

Minority - Ought to Pass as Amended by Committee Amendment "B" (S-117).

In Senate, June 2, 1987, the Minority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-117).

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-116) in NON-CONCURRENCE.

Senator USHER of Cumberland moved to ADHERE.

Senator LUDWIG of Aroostook moved to RECEDE and CONCUR.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Ludwig.

Senator LUDWIG: Thank you Mr. President, men and women of the Senate. By way of explanation, I would just like to let you know that the Committee on Energy and Natural Resources has agreed or found a compromise for almost everything which has come