

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Thirteenth Legislature

OF THE

State Of Maine

VOLUME IV

SECOND REGULAR SESSION

March 25, 1988 to May 5, 1988

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HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

THE PRESIDENT: The Chair answers in the affirmative.

Senator WEBSTER of Franklin requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator DOW of Kennebec, to ADHERE.

A Division has been requested.

Will all those Senators in favor of the motion of Senator DOW of Kennebec, to ADHERE, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator DOW of Kennebec, to ADHERE in NON-CONCURRENCE, PREVAILED.

Sent down for concurrence.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator BALDACCI of Penobscot, ADJOURNED until Tuesday, March 29, 1988, at 9:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
54th Legislative Day
Tuesday, March 29, 1988

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

Prayer by Reverend Kenneth Baily, First Parish Congregational Church, Yarmouth.

The Journal of Monday, March 28, 1988, was read and approved.

Quorum call was held.

SENATE PAPERS

Unanimous Leave to Withdraw

(1-1) Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Require the Department of Human Services to Reimburse Nursing Homes for the Reasonable Costs of Recruiting, Training and Retaining Qualified Nursing Staff" (S.P. 127) (L.D. 332)

(1-2) Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Contain the Cost of, and to Assure the Availability and Quality of, Hospital Care to the People of this State" (S.P. 330) (L.D. 958)

(1-3) Report of the Committee on Human Resources reporting "Leave to Withdraw" on RESOLVE, to Fund Demonstration Projects for Day Care Services in Health Care Facilities (Emergency) (S.P. 835) (L.D. 2169)

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

Non-Concurrent Matter

(1-4) Bill "An Act to Expand the Membership and Clarify the Role of the Commission on Intergovernmental Relations" (Emergency) (S.P. 790) (L.D. 2078) which was passed to be engrossed as amended by Committee Amendment "A" (S-354) as amended by House Amendment "A" (H-529) thereto in the House on March 25, 1988.

Comes from the Senate with that Body having adhered to its previous action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-354) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

(1-5) Bill "An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years" (H.P. 1594) (L.D. 2180) which was passed to be engrossed as amended by Committee Amendment "A" (H-510) and House Amendment "A" (H-519) in the House on March 24, 1988.

Comes from the Senate passed to be engrossed as amended by House Amendment "A" (H-519) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

(1-6) RESOLVE, Establishing the Commission to Study Secondary Transportation Corridors in Maine (S.P. 816) (L.D. 2136) on which the Majority "Ought Not to Pass" Report of the Committee on Transportation was read and accepted in the House on March 28, 1988.

Comes from the Senate with that Body having adhered to its previous action whereby the Minority "Ought to Pass" as amended Report of the Committee on

Transportation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-355) in non-concurrence.

On motion of Representative Macomber of South Portland, the House voted to adhere.

COMMUNICATIONS

(2-1) The following Communication:
STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333
March 25, 1988

Hon. Edwin H. Pert
Clerk of the House
State House Station #2
Augusta, Maine 04333
Dear Clerk Pert:

This is to notify you that pursuant to my authority under 5 M.R.S.A., Section 3517, I have today appointed Rep. Neil Rolde, of York, to serve on the Community Services Advisory Board.

Sincerely,
S/John L. Martin
Speaker of the House

Was read and ordered placed on file.

ORDERS

REPORTS OF COMMITTEES

Ought to Pass in New Draft

(6-1) Representative GREENLAW from the Committee on Fisheries and Wildlife on Bill "An Act to Extend the Coyote Night Hunting Season" (H.P. 1735) (L.D. 2380) reporting "Ought to Pass" in New Draft (H.P. 1895) (L.D. 2590)

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

(6-2) Representative PERRY from the Committee on Legal Affairs on Bill "An Act Concerning Law Enforcement Education and Training and Funding for Training" (H.P. 1556) (L.D. 2120) reporting "Ought to Pass" in New Draft (H.P. 1899) (L.D. 2594)

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

Ought to Pass in New Draft/New Title

(6-3) Representative BROWN from the Committee on Fisheries and Wildlife on Bill "An Act to Amend the Fisheries and Wildlife Work Education Program" (Emergency) (H.P. 1661) (L.D. 2271) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Youth Fisheries and Wildlife Conservation Education Program" (H.P. 1896) (L.D. 2591)

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

Ought to Pass in New Draft/New Title

(6-4) Representative TARDY from the Committee on Agriculture on Bill "An Act to Allow the Sale of Farm-Raised Venison in Maine" (H.P. 1499) (L.D. 2049) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Allow the Propagation and Sale of Certain Deer for Food" (H.P. 1897) (L.D. 2592)

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

Ought to Pass in New Draft/New Title

(6-5) Representative MANNING from the Committee on Human Resources on Bill "An Act to Provide that Places of Public Accommodation Install Bathroom Stalls in Conformance with the American National Standards Institute Standards" (H.P. 1543) (L.D. 2098) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide that Places of Public Accommodation Install at Least One Standard Bathroom Stall in Conformance with the Standards of the American National Standards Institute" (Emergency) (H.P. 1898) (L.D. 2593)

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

CONSENT CALENDAR

First Day

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

(7-1) (S.P. 922) (L.D. 2413) Bill "An Act Relating to Games of Chance" (Emergency) Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-361)

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

PASSED TO BE ENGROSSED

(9-1) Bill "An Act to Enhance Enforcement of the Handicapped Parking Laws" (S.P. 974) (L.D. 2587)

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

SECOND READER

As Amended

Later Today Assigned

(9-2) Bill "An Act Relating to 6-Axle Vehicles Carrying General Commodities" (S.P. 869) (L.D. 2264) (C. "A" S-359)

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

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I rise again, as I did yesterday. Maybe I should tell you a little more about my background. Some of you probably aren't aware that my family has been in the transportation business for about 60 years. Believe it or not, my mother who is five foot two, eyes are blue, blonde, beautiful lady who I am very proud of, is an ICC truck driver. She has been driving since she was 10 years old. My father is a truck driver. My husband is a truck driver. My uncle's have had trucks in their families for years and years. We are talking over 60 years of experience here.

They didn't say, "Harriet, get into a car, put the car in D and drive." At ten years old, I learned how to drive on a farm tractor here in Augusta. Then I went to a pickup truck and a jeep with a stick shift on the floor and then a 16 ton truck. So, I can speak a little bit about how to drive. What I am

trying to say here is that I am not talking from somebody who doesn't know about transportation.

I got a phone call from a person who is on the Maine Highway Safety Committee who said that this bill is a very dangerous bill. I tried to tell you yesterday how my husband was almost killed in Ellsworth. Those secondary roads are not equipped to take those heavy weights. He hit a soft shoulder, his truck turned over 360 degrees and he slid on his head and was almost decapitated. He went to a clinic and they told me he was in intensive care. My children and I were pretty hysterical. That is what is going to happen here -- those secondary roads are not equipped to take that heavy weight.

You heard my very good friend, Representative Vose, talk about the bed and, if you dispersed the weight over the bed, how it will probably last longer. Well, I say if you use something over and over and over again, it is going to wear out. It will wear out faster because you are using it more.

Now you are saying that we have to support these roads and bridges. What I am saying to you is that you had better be able to support a gas tax to pay for the costs to those roads and bridges. My people back home are not in favor of a gas tax. I don't know if your people are in favor of a gas tax but my city officials are in favor of a gas tax because they need it for their roads and bridges.

This is a very serious problem, who is going to pay? What is the impact to this state? We haven't any railroads, now what are we going to do? Are we going to cause more problems for the truckers of this state?

I played a game one day going from Augusta to Portland several months ago because I was curious to see how many trucks were on the road in that one hour it takes me to go from Augusta to Portland. I counted 150 trucks. 150 in one hour. Can you imagine how many trucks are going on that road? And that was I-95. I am not talking about the secondary roads and bridges that this will address because these large trucks now will not be able to go on I-95, only the secondary roads and bridges. Through those little towns -- more and more trucks are going to go.

I am also concerned with what is going to happen -- you know how you all come up here and you complain about the truckers, "Oh, those darn truckers. Well, we will make them pay. We will put an increase on their fees or a tax on them." By the way, the gas tax won't address them because it doesn't address diesel. What are we going to do to those truckers? Because they are going to wear out the roads and the bridges, are we going to make them pay somewhere along the line? I bet we will.

I say that we need those truckers because, if you stop them from coming into this state, you are going to be cutting off the hand that feeds you. They are the people that bring everything into the state that we have right now. My business used to use the railroads. We don't now. We used to use trucks and we used to use railroads but we can't anymore. I need those trucks, we need those trucks to bring our food, our mail, our fuel, all of those things that are very much needed up north and down south.

I would hope that you would indefinitely postpone this bill. I told you yesterday, it is a very dangerous bill and we shouldn't allow this to go through. I hope that you will support me again today, those of you who did and I hope all of you will use good common sense and put this bill where it belongs.

Let's think about the gas tax again. We haven't passed it. Where is this money coming from? Maybe

after you do pass the gas tax, maybe you could put this bill through, then you will have something to pay for those roads and bridges but right now we are struggling, we don't have the funds to do it.

I hope you will not put the horse before the cart here. Wait and see, give this a trial.

Yes, they will tell you that there are some trucks that are already doing this. I can't stop that, that is already done. What I am saying to you is, more and more is more dangerous. More will wear out those roads, they are not built for it, nor are the bridges built for that heavy weight. I hope that I can make you understand how serious it is.

I never get up on this floor and go against the committee with that much vote against me. I have never done that in the history that I have been here. It is very difficult for me to be able to go against my good friend, Representative Moholland. He and I have talked many times about trucking issues. I usually agree with some of the things that he has brought forward to you. But today, I feel very strongly that this is not the way for us to go. I would hope that you would listen and please vote with me on indefinite postponement of this bill.

Mr. Speaker, I move indefinite postponement of this bill and all accompanying papers and further request a roll call.

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

Representative SOUCY: Mr. Speaker, Ladies and Gentlemen of the House: I was one of the two that signed the Minority Report and I said that I would offer an amendment that would take care of my objections.

Subsequently, Representative Soucy of Kittery offered House Amendment "A" (H-518) and moved its adoption.

House Amendment "A" (H-518) was read by the Clerk and adopted.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The task force on railroads has done a tremendous amount of work in dealing with the issues of transportation in this state to assure that the proper transportation facilities will be available so that the economic viability of this state will be assured.

I have another bill, a corresponding bill, that calls for a study to determine whether the charge that we have been hearing for years now that the trucking industry is being subsidized to the detriment of the railroads and that there are numerous violations of truck overweight traveling over our highways. When the department appeared before the task force, the question was posed to them, if there was indeed a tremendous amount of violation. We were told, based on data that they had collected from the weigh-in motion scales that there was a very small percentage of truck weight violators. My follow-up question was, you are telling us that there are trucks traveling over these weigh-in motion scales that are over the legal limit? Then I said, can you tell us how many of those trucks are actually loaded above their licensed limit? They couldn't tell us. So, the information that we have been receiving from the Transportation Department in the form of statistical data is flawed.

I have noticed something this Spring that I have never noticed before on the Interstate Highway. I am concerned. I drove down this morning and it really catches my eye, every time that I drive over 95 from Waterville to Augusta, I can't believe what I am seeing on the Interstate System. Ladies and

gentlemen of the House there are actual ruts on Interstate 95, actual ruts. It is certainly not being caused by my car or any other small vehicle.

I would like to pose a question through the Chair to anyone on the Transportation Committee who might be able to tell me how much weight displacement was Interstate 95 designed for and what is causing the ruts on Interstate 95?

The SPEAKER: Representative Carter of Winslow has posed a question through the Chair to any member of the Transportation Committee who may respond if they so desire.

The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Men and Women of the House: I think a fellow by the name of Jack does most of that, that would be Jack Frost and all the vehicles running over that highway would make it that way.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I have known Jack Frost for many years. I was born and brought up in this state. Jack Frost does not cause longitudinal ruts in the highway, specifically on a highway designed to carry a certain amount of weight.

Mr. Speaker, I would like to pose a question to the Chair. I would like to know if this bill is properly before this body?

The Statement of Fact on L.D. 2264 says on the last page, line one of page four, and I quote, "While resulting in minimal additional payment and bridge consumption for the total program." This translates to me as a cost to the highway system but yet there is no note on how much there is in actual cost. I believe the fiscal note is not properly prepared. I would like a ruling from the Chair.

(At Ease)

The House was called to order by the Speaker.

The SPEAKER: The Chair would rule, based on the request from Representative Carter of Winslow, that according to the fiscal note, from the requirement from the Office of Fiscal and Program Review that the bill at this time needs to be amended to include a fiscal note. The Chair would table this matter pending an amendment to be prepared because this is the time for that amendment to be placed on. So, if an amendment is not prepared by this afternoon, the Chair will rule the bill improperly before the body.

On motion of Representative Martin of Eagle Lake, tabled pending a required fiscal note on House Amendment "A" and later today assigned.

PASSED TO BE ENGROSSED

(9-3) RESOLVE, Concerning a Proposed Supreme Judicial Court Facility (Emergency) (H.P. 130) (L.D. 159) (H. "A" H-485 to C. "A" H-481)

Was reported by the Committee on Bills in the Second Reading, read the second time, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence

PASSED TO BE ENACTED
Emergency Measure

(10-1) An Act Relating to Sentences with Intensive Supervision (S.P. 728) (L.D. 1987) (C. "A" S-353)

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

PASSED TO BE ENACTED
Emergency Measure

(10-2) An Act to Clarify the Status of Police Officers Assigned to the Bureau of Intergovernmental Drug Enforcement and to Add a District Attorney to the Bureau's Policy Board (S.P. 832) (L.D. 2166) (S. "B" S-357; S. "A" S-343; C. "A" S-340)

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

PASSED TO BE ENACTED
Emergency Measure

(10-3) An Act to Provide for Allocations of the State Ceiling on Private Activity Bonds (S.P. 910) (L.D. 2376)

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

PASSED TO BE ENACTED

(10-4) An Act to Correct Inconsistencies in the Publication of Legal Notices (S.P. 864) (L.D. 2252) (H. "A" H-522 to C. "A" S-350)

(10-5) An Act to Provide a Special Exemption to Bangor Pre-Release Center Employees for Service Retirement Benefits (S.P. 926) (L.D. 2437)

(10-6) An Act to Make Certain Personnel Records Maintained by the Bureau of Human Resources Available to the Bureau of Employee Relations (S.P. 972) (L.D. 2581)

(10-7) An Act to Amend the Rules of Construction to Permit Use of Gender-Neutral Language in Maine Statutes (H.P. 1449) (L.D. 1960) (C. "A" H-515)

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

(10-8) An Act to Improve the Regulation of Pesticides (H.P. 1557) (L.D. 2121) (S. "A" S-356 to C. "A" H-516)

Were 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

(10-9) An Act to Create a Uniform School Unit Budgeting Process (H.P. 1740) (L.D. 2386) (C. "A" H-517)

(10-10) An Act to Add a Hemophiliac to the Committee to Advise the Department of Human Services on AIDS (H.P. 1771) (L.D. 2424) (C. "A" H-514)

(10-11) An Act to Provide for a State Trademark for Maine Products (H.P. 1880) (L.D. 2572)

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

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

An Act to Create a State Capitol Commission" (S.P. 966) (L.D. 2563)

TABLED - March 28, 1988 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

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

HOUSE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (H-531) - Committee on Transportation on Bill "An Act to Provide the Capability to Assess the Impact of Overweight Trucks on Maine Highways" (H.P. 1751) (L.D. 2400)

TABLED - March 28, 1988 by Representative CARTER of Winslow.

PENDING - Motion of Representative MOHOLLAND of Princeton to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Carter of Winslow, retabled pending the motion of Representative MOHOLLAND of Princeton that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

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

An Act to Reform the Pharmacy Laws (Emergency) (S.P. 963) (L.D. 2555) (S. "A" S-349)

TABLED - March 28, 1988 by Representative ALLEN of Washington.

PENDING - Passage to be Enacted.

On motion of Representative Allen of Washington, under suspension of the rules, the House reconsidered its action whereby L.D. 2555 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-546) and moved its adoption.

House Amendment "A" (H-546) was read by the Clerk and adopted.

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 fourth tabled and today assigned matter:

An Act to Appropriate Funds for Replacement of Real Estate Tax Validation Machines in County Registries of Deeds (H.P. 1638) (L.D. 2237) (C. "A" H-476)

TABLED - March 28, 1988 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Carter of Winslow, was recommitted to the Committee on Appropriations and Financial Affairs in non-concurrence and sent up for concurrence.

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

Bill "An Act to Revise the Energy Building Standards Act" (S.P. 93) (L.D. 247)

- In House, Bill and accompanying papers indefinitely postponed on March 21, 1988.

- In Senate, Majority "Ought to Pass" in New Draft Report of the Committee on Energy and Natural Resources read and accepted and the New Draft (S.P. 958) (L.D. 2539) passed to be engrossed as amended by Senate Amendment "B" (S-352) in non-concurrence.

TABLED - March 28, 1988 by Representative JACQUES of Waterville.

PENDING - Motion of Representative HOGLUND of Portland to Recede and Concur.

On motion of Representative Diamond of Bangor, retabled pending the motion of Representative HOGLUND of Portland that the House recede and concur and later today assigned.

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

An Act to Increase the Minimum Wage (H.P. 1887) (L.D. 2582)

TABLED - March 28, 1988 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

Representative HANLEY: Mr. Speaker, Ladies and Gentlemen of the House: I move that the Bill and all accompanying papers be indefinitely postponed.

I feel compelled to rise this morning to speak on an issue that has ultimately become a moot point.

My simple statement will be in stark contrast to the larger statements that this House will be making this morning. If nothing else, this legislature has been consistent in the message that it sends to our business community. We are continually passing legislation that makes it more difficult for our businesses to survive. Our current economic prosperity can be directly tied to the employment opportunities that our small businesses have provided. Yet, this bill, seemingly innocuous in scope, would provide only \$4 extra per week for people on a 40 hour work week.

I ask you, who does this help and who does this hurt? It hurts those who would have been offered jobs by businesses, but these businesses found it no longer economically prudent to create these new jobs. A ten cent increase in our state's minimum wage is not in and of itself going to cripple our businesses. But the cumulative affect of like legislation will surely deter future potential business growth. When are we going to have the courage to teach our constituents business education?

We have become the hesitant parents who are afraid to teach our children sex education. Instead of telling them where babies come from, we skirt the issue and don't give a straight answer. When are we finally going to tell the people where jobs come from? They come from businesses that are willing to take a chance and provide goods or a service. Let's work toward creating jobs.

Mr. Speaker, I request a roll call.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: Quite frankly, the gentleman's motion to indefinitely postpone the bill surprised me somewhat. I knew the gentleman had some concerns about the bill but I didn't think his concerns were so great that he didn't want to see this issue pass.

Everyone here has gone through the battle over the proposed minimum wage increase. Those who were here in 1984 remember it full-well and understand how difficult it was to deal with that at that time.

At that time, Maine was considering becoming what in effect would have been the state with the highest minimum wage in the country. At that time, there were all kinds of prophets of doom who said that our proposed increase would have a devastating effect on business, would cost people their jobs, would send a negative signal to businesses inside Maine and outside of Maine and, in effect, be disastrous for the state's economy.

Many of those arguments were just presented by the gentleman from Paris in his testimony on the floor. I think it has become clear that the track record shows that those prophets of doom were wrong.

If you look at what has taken place in Maine since 1984, all evidence points to the contrary. Our unemployment rate has been cut by a third. Per capita income in Maine is up by \$2,000 per person. Businesses aren't turning away from Maine, they are entering into Maine in a rate that has forced us to look at the problem of growth management and the problem of growth that is coming too fast.

There were a lot of people, when we debated this issue, who were concerned about the impact on businesses and some, as the gentleman suggested, implied that we would be sending a negative message to business and that, in fact, we would be hurting business. He words were, I believe, "It would make it difficult for businesses to survive." Well, this is a survival issue, although the survival question deals more with the people who have to work for minimum wage, the lowest wage allowable by law, rather than the businesses themselves.

The proposal that I introduced called for a 20 cent increase next year and a 20 cent increase in 1990. I think that is a reasonable request. Others felt it was a reasonable request. However, it became clear that some, not in this body, would prohibit that from becoming law. As a result, we came up with a compromise that all on the committee felt was acceptable. Not all of us were thrilled or jumping for joy about the fact that the proposal has been cut from 20 cents a year increase to 10 cents a year increase but we figure that half a loaf is better than none.

Overall though, it gives us some sense of vindication, if you want to call it that, that what we have put together and proposed to this body for enactment today is going to have a positive impact on the estimated 35,000 men and women who earn minimum wage in Maine, 35,000 men and women, many of whom with families to support on what amounts to a take-home wage of \$125 a week.

Those of you who had the courage to support this issue last year should feel that this is a vote of reaffirmation. The courage you showed in supporting this in light of or in face of a possible veto at that time is to your credit. Now, you will have a chance to pass a bill that, in effect, reflects that very bill that was vetoed last year. It is to your credit that you provided that support last year and I am hoping you will be willing to do so again.

For those who voted against it last year, you have an opportunity for reconciliation, an opportunity to correct the vote you cast last year and to do something positive for those 35,000 men and women in a way that is not going to discourage businesses from expanding here, that is not going to cost anybody his or her job, that is not going to have a negative impact on the state's economy. What it will do is have a positive effect on a number of people without imposing any detrimental impact on the people of Maine.

I think the proposal before us is a reasonable one. It may not be all that we want, but it is a step in the right direction.

Yes, ten cents an hour may see a pittance in comparison to some of the raises given by the corporations that we read about every day and in comparison to the proposal being discussed in Washington right now. However, in light of the fact that those in Washington don't believe that a federal minimum wage increase will pass this year or a federal minimum wage increase will not be signed into law this year, then I think that the ten cents we are offering right now is the only hope for an increase over the minimum wage that the people of Maine can expect.

I would ask you to defeat the motion to indefinitely postpone this bill and give a strong vote of confidence toward this bill and send it down to the other body.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I think we are hearing on the debate on this bill and the other bills that have preceded this in terms of the minimum wage that, no matter where a Representative finds him or herself on the issue, everyone in this body cares very deeply about Maine working people.

The multiple hearings on this bill and other bills has helped, I think, open our eyes in terms of getting that information that we need in terms of Maine working people. We are very quick to point out, in terms of per capita income, we are very quick to point out our manufacturing average, manufacturing wage, but when the hearings began, the number was that there were 100,000 Maine workers on minimum wage, that declined to 50,000 and now down to 35,000. I think everyone one on both sides of the isle here today hope that that kind of dramatic drop continues or accelerates.

In a previous speech dealing with a previous bill, I had expressed two major concerns. One, that we felt that the Congress was going to move on this issue, that the Congress before it went home this Fall, would make a change in the minimum wage on a national level. It had also expressed the concern of the State of Maine with its minimum wage being out of sync with other New England states or other regions. Well, we have had a chance to watch the U.S. Congress whose basic responsibility is to pass a budget and we saw their inability to pass a budget. We also saw this year, in January and February, when \$100 million worth of military aid came from the Soviet Union and Eastern Block countries that Congress could not pass a humanitarian budget for the freedom-fighters in South American or Central America. So, I am a little concerned about the ability of the Congress to meet its obligations.

I support this bill to make sure that Maine workers in January will have that increase. I have to praise the Labor Committee in terms of the work they did in making sure in the second year that we remain competitive with the other New England

states. So, while there have been partisan clashes in that committee that have spread out here to the floor, I need to praise that committee in terms of when they do come together and work in terms of the interest of Maine working people, we do have positive, constructive results.

I still have the same concerns that I had before, that if we pass this minimum wage and pat ourselves in the back and then bury our head in the sand and say that we have done all that we need to do, then we have hurt the working people of Maine. Much more needs to be done to open up the doors of opportunity for working people. We have seen in the southern part of the state what a tight job market can do. We have seen businesses that used to be minimum wage -- because the unemployment rate is down under two percent or one percent, with a starting salary, probationary salary is \$5 or more, and fringe benefits are attached. That should be our goal, that that same type of tight job market that exists in York and Cumberland County should exist in every county within this state because the workers will gain in terms of the opportunity, in terms of salary, not minimum wage, but well beyond that.

I think we can take a great deal of pride in terms of together what we have accomplished. We have seen the job opportunity zones awarded and we are going to work in a constructive way to bring those same kinds of opportunities to other regions of the state. We have consolidated our economic development programs under one director, one leader, in an effort to bring jobs and improve jobs here in the state. But, if we are really concerned about the working people of Maine, in addition to the positive action we will take here today, we need to be looking to make sure that we have the courage in an election year to vote the education dollars for the University of Maine system, for the VTI's, for local education and adult education. We also have to ask ourselves, do we have the courage because those of you from northern, central, and eastern Maine know that roads and bridges mean jobs, will we have the courage here as well in an election year to address that issue of roads and bridges for Maine's future and the jobs that will follow? Will we have the courage to support the retraining programs? Every study we have seen, every trip we take, we know that Mainer's, many of them, are not equipped or ready for the jobs of the future and will we have that courage to support those programs? Will we have the courage to support a bill called ASPIRE, which talks about breaking the cycle of welfare, the bonds of welfare? So much remains to be done, ladies and gentlemen. We only have four weeks remaining and maybe we need to set some goals for the next legislature that, no matter where this minimum wage, whether it is enacted here on the state level or on the federal level and whether it is \$3.75, \$3.85 or more, that some time in the future when we come together and we study those lower wage levels here in Maine, that someday we may find that we don't have one Maine worker currently employed at minimum wage.

Representative Hanley of Paris withdrew his motion for indefinite postponement and requested a roll call on enactment.

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 LaGrange, Representative Hichborn. Representative HICHBORN: Mr. Speaker, Men and Women of the House: There is a saying "what goes around, comes around" and I think that we have seen a good example of this this morning.

A year ago, I stood here and spoke in favor of an increase in the minimum wage and it is gratifying for me to hear one word from the good gentleman from Bangor and that word was "vindication" because it seems to me that those who thought that my vote was wrong last year have so many kind words to say in expressing their concern for the working people in Maine.

I have only one regret this morning as we vote and that is that we can't vote for 20 cents instead of 10 cents because my feeling is that the passage of the increase some years ago, known as the 10-10-10 plan, reduced a number of people at the bottom of the economic ladder from 100,000 down to 50,000 and then to 30,000 -- maybe if we could increase that amount by 20 cents instead of 10, it might enable the last 30,000 to get up the ladder one more step.

I hope you vote to pass this bill.

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. 228

YEA - Aliberti, Allen, Anderson, Baker, Begley, Bickford, Bost, Boutillier, Bragg, Brown, Callahan, Carroll, Carter, Cashman, Chonko, Clark, H.; Clark, M.; Conley, Cote, Crowley, Curran, Daggett, Davis, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foster, Glidden, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Handy, Harper, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Kilkelly, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Michaud, Mills, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Priest, Racine, Rand, Reed, Rice, Richard, Ridley, Rolde, Rotondi, Rydell, Sheltra, Sherburne, Simpson, Smith, Soucy, Stevens, A.; Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Bailey, Bott, Dexter, Garland, Hanley, Hillock, Holloway, Kimball, Scarpino, Seavey, Small, Stanley, Webster, M..

ABSENT - Anthony, Armstrong, Coles, Dellert, Foss, Ketover, Marsano, Melendy, Mitchell, Nadeau, G. G.; Reeves, Ruhlin, Salsbury, Stevens, P..

Yes, 123; No, 13; Absent, 14; Vacant, 1; Paired, 0; Excused, 0.

123 having voted in the affirmative and 13 in the negative with 14 being absent and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Representative Carter moved that the House reconsider its action whereby Bill "An Act to Require Supervisory Auditors to Obtain Professional Certification within 3 Years" (H.P. 1594) (L.D. 2180) which was passed to be engrossed as amended by Committee Amendment "A" (H-510) and House Amendment "A" (H-519) in the House on March 24, 1988. Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-519) and the House voted to recede and concur.

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

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

SENATE PAPER

(1-1) The following Joint Resolution: (S.P. 976)

JOINT RESOLUTION IN RECOGNITION OF
MAINE'S TRAVEL AND TOURISM INDUSTRY

WHEREAS, "the benefits of travel are many; the freshness it brings to the heart; the delight of beholding new cities; the meeting of unknown friends;" and

WHEREAS, with its geographical breadth and diversity, vacationland proudly offers those and countless other benefits to all who choose the great escape and pathway from the stresses of our mundane worlds; and

WHEREAS, Maine's travel and tourism industry is the State's 2nd largest industry and makes substantial contributions to the economic welfare of the State, providing nearly 2 billion dollars to the Maine economy in 1987; and

WHEREAS, the diversified nature of the tourism industry in Maine enhances the state economy and the well-being of the people of Maine and all who visit the State; and

WHEREAS, since the travel and tourism industry attracts more people to Maine, which in turn will yield greater revenue to the General Fund through increased tax revenues and employment for the people of Maine, promoting tourism is, in fact, an investment in Maine's future; now, therefore, be it

RESOLVED: That we, the Members of the 113th Legislature of the State of Maine, now assembled in the Second Regular Session, take this opportunity to acknowledge the many outstanding accomplishments of those in the State's travel and tourism industry and express to them on this particular day a full measure of our gratitude and appreciation for their outstanding contribution to the well-being of this State; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Tourism Commission in honor of this special occasion.

Comes from the Senate, read and adopted.
Was read and adopted in concurrence.

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

(After Recess)

The House was called to order by the Speaker.

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

SENATE PAPERS

Ought to Pass in New Draft/New Title

(1-1) Report of the Committee on Labor on Bill "An Act to Prohibit Substance Abuse Testing in the Workplace" (S.P. 73) (L.D. 156) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants" (S.P. 975) (L.D. 2589).

Comes 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.

Divided Report

(1-2) Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "B" (S-362) on Bill "An Act Amending the Workers' Compensation Laws Exempting Design Professionals from General Civil Liability for Injuries on Construction Projects" (S.P. 238) (L.D. 657)

Signed:
Senators:

BLACK of Cumberland
BRANNIGAN of Cumberland
GAUVREAU of Androscoggin
VOSE of Eastport
THISTLE of Dover-Foxcroft
HANLEY of Paris
COTE of Auburn
MacBRIDE of Presque Isle
BEGLEY of Waldoboro
PARADIS of Augusta
MARSANO of Belfast

Representatives:

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

Signed:

Representatives: WARREN of Scarborough
CONLEY of Portland

Comes from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-362)

Reports were read.

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

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Warren.

Representative WARREN: Mr. Speaker, Men and Women of the House: I will attempt to be brief, I would just like to raise a few points concerning this legislation so that everyone in the House is aware of what the House is probably about to do. I just want to give you a little legislative history for anyone in the judicial system who has to interpret this law down the road.

In sum, this is a bill that has been put in by the architects and design professionals asking to be exempt from liability concerning work site injuries where the injured worker receives Workers' Compensation payments. Currently in some situations, a worker who has been injured may recover Workers' Compensation benefits, lost wages, medical bills, and so forth from his employer. Then he has a right to bring what is called a third-party action, a lawsuit against anyone else who has contributed in any way to his injury through negligence. For instance, if he is injured at the workplace by a product, by a punch press or drill press, he can not only get Workers' Compensation benefits from his employer, but he can bring a lawsuit against the manufacturer of the machine. On a work site injury, such as construction of a building, the worker would have a right, currently, to name as a party defendant an architect who had something to do with the blueprints for the building and anything else having to do with the construction of the site.

The architects have told us in testimony before the Judiciary Committee that they have been named in

a number of lawsuits nationwide and they do not wish to be named any further.

The reason why I am opposing this bill is the same set of reasons as is outlined in the handout that was distributed last week.

In summary, I am concerned about approximately 5 percent of the cases. In 95 percent of the cases, the architects ought to be immuned from liability. We have some outstanding architect and design professionals who do a very good job and we have some outstanding construction companies who do a very good job. The construction companies by and large have adequate safety precautions on the site and adequate procedures, whether it is safety railings or safety nets or what have you but my concern is, in the State of Maine, we don't license contractors. While that is a major victory for free enterprise in our society, the fact is some of you know from talking with your constituents, that there are some bad construction companies in Maine. Specifically, some of the smaller ones who are very well-intentioned and hard working, don't have the experience, they don't set up adequate safety procedures and, in some of those cases where they are working on a project, such as a condominium or an office building, they are working with a very experienced design professional. An architect is helping them with the blueprints, helping them go through the zoning board, the planning board, what have you and, in those cases, I am concerned that what we are doing in this bill is allowing the architects to walk away from safety considerations. We are allowing the architects to just wash their hands of all safety questions, even when they know these Mom and Pop contractors are not taking adequate safety precautions. For instance, an architectural firm could have been involved last year in a particular project and they might know from experience that the contractor ought to be setting up safety railings on the second floor of the construction site. Under this bill, if it passes, the Maine Legislature will tell the architect that the architect has no duty to make sure that that Mom and Pop contractor sets up a safety procedure that the architect knows about.

Unfortunately, we don't license contractors in the State of Maine so anyone can be a contractor. In those situations, where the architect is more experienced than the contractor, I feel that the legislature ought to be only passing laws that will require the architect to be involved in the safety consideration and decisions, simple as that.

Ninety-five percent of the time, this bill would be no problem but in 5 percent of the situations, I think we are going to see a situation created that is not going to promote the greatest safety in the worksite.

Employers in the State of Maine have immunity from lawsuits and they should. I support that. I also voted for the Workers' Compensation Reform package twice in the last three years. Every time we have a major reform, I understand the problems with premiums, I understand the need for employers to be immuned from large civil suits. In exchange for that, the employer's give up something to Maine workers, they give up the right to contest employee negligence in those actions.

In this case though, I think the architect's and the design professionals simply aren't giving up anything in exchange. They are simply asking to be allowed to wash their hands of safety considerations in cases where sometimes I think they shouldn't and they are not giving up anything in return. For that reason, I am opposed to this legislation.

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

Representative VOSE: Mr. Speaker, Men and Women of the House: I would like to read you a few facts about this particular bill. I feel that it is appropriate that I do so we understand exactly what we are voting for this afternoon.

Design professionals are architects of engineers who provide an owner of a project with specifications and plans for a building of a project. L.D. 657 provides that a design professional is immuned from liability for the injuries of a contractor's employee if (1) the injured worker has Workers' Compensation coverage; (2) the injury was not caused by faulty designs or specifications provided by the design professional; (3) and the design professional has no duty under a contract for job site safety.

After a design professional completes the plans and specs, his main job is to inspect the job periodically to make sure that it is being built according to his design and specs. Design professionals have no authority over the employees of the contractor.

It is unfair to make the design professionals responsible for injuries which occur at a place where they do not have daily contact and which occur to people over they have no control. Too often, the design professional is seen as the "deep pocket" and it becomes a target for plaintiff lawyers, causing him to hire an attorney and spend a lot of his valuable time defending the case. Then the case is dismissed (which is 95 percent of the time, as was pointed out) against him because he was not responsible for job site safety.

I hope that you will go along with the Majority "Ought to Pass" Report.

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

A vote of the House was taken.

99 having voted in the affirmative and 9 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "B" (S-352) was read by the Clerk and adopted and the Bill assigned for second reading, Thursday, March 30, 1988.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

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

Appropriations and Financial Affairs

(3-1) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$13,000,000 to Investigate, Abate, Clean Up and Mitigate Threats to Public Health and the Environment from Uncontrolled Hazardous Substance Sites, Solid Waste Landfills and Abandoned Underground Oil Storage Tanks" (H.P. 1902) (Presented by Representative HOLLOWAY of Edgcomb) (Cosponsors: Representative MICHAUD of East Millinocket and Senator MAYBURY of Penobscot)

Ordered Printed.

Sent up for Concurrence.

REPORTS OF COMMITTEES
Unanimous Leave to Withdraw

(6-1) Representative CLARK from the Committee on Banking and Insurance on Bill "An Act to Create a Joint Underwriting Association for Directors and Officers of Corporations" (H.P. 1779) (L.D. 2432) reporting "Leave to Withdraw"

(6-2) Representative CASHMAN from the Committee on Taxation on Bill "An Act to Extend the Sales Tax Exemption on Energy Use in Manufacturing to Agricultural Businesses" (H.P. 1668) (L.D. 2286) 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:

(7-1) (H.P. 1827) (L.D. 2503) Bill "An Act to Amend the Maine Banking Code" (Emergency) Committee on Banking and Insurance reporting "Ought to Pass"

(7-2) (H.P. 1729) (L.D. 2372) Bill "An Act to Revise and Modify Certain Laws Relating to the Department of Inland Fisheries and Wildlife" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-548)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 30, 1988, under the listing of Second Day.

(7-3) (H.P. 1477) (L.D. 2012) Bill "An Act to Restore Driver Education Credit in Secondary Schools" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-549)

On motion of Representative Mayo of Thomaston, was removed from the Consent Calendar, First Day.

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

Committee Amendment "A" (H-549) was read by the Clerk.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: The bill before you is a bill that I was a cosponsor of "An Act to Restore Driver Education Credit in Secondary Schools" in Maine. Representative Dana Stevenson was the prime sponsor of the bill.

A few years ago, this legislature passed an omnibus education bill with wording that would take away the right for a school district to award credits for driver education, if they charged a fee. It is my understanding that the Education Committee was concerned about the constitutional questions involved in providing a free education in Maine.

I contended in committee, evidently without success, that Maine students were still entitled to a free education because they did not need driver ed credits to get a diploma.

Committee Amendment "A" would change the bill from a bill that would restore those credits to a bill that would study the issue. I understand that it is important that we study things, that we look at these constitutional questions, but I don't happen to see it quite that way. I am a little concerned that the legislature could get stared down by a few lawyers who say there is a constitutional crisis here. I don't see one.

We have allowed schools to allow credits for driver education for a long time. We took that right

away, I didn't know we did it when we did it because it was in the huge education bill. Representative Stevenson and I were both approached by driver education teachers in our district and we collaborated and brought this bill forward.

Mr. Speaker, I move indefinite postponement of Committee Amendment "A."

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

Representative BOST: Mr. Speaker, Ladies and Gentlemen of the House: In response to Representative Mayo's concern, I would like to address a couple of areas that he touched upon but I would like to expand on, just briefly.

To begin with, this was a unanimous committee report. I was also a cosponsor of this bill. Representative Stevenson approached me and asked me if I agreed with the concept, agreed that we ought to restore driver education credits in secondary schools and if I would cosponsor the bill with him. I agreed because I do see it as an issue that needed to be addressed and I had hoped that we could address it in this session. I had, as well as the other members of the Education Committee, every intention to do that this session.

In pursuing the bill, we were confronted with a rather significant legal question. We, as a committee, solicited the opinion of the Attorney General's Office and, unlike Representative Mayo's reference to that office, it is not just a couple of lawyers who, at whim, issued an opinion. We asked them formally and they gave us an opinion with regard to the constitutionality of the bill. They responded that it was ambiguous enough to raise serious questions as to the constitutionality of the bill with regard to fees being charged for courses, where credit is granted. In light of this provision in the Maine Constitution which requires that school units provide public education at the local units expense. The AG's Office indicated that that was serious enough problem that it could render this law, if it went into effect, unconstitutional.

Bearing that in mind, and the very positive sentiment, overwhelming sentiment, in the Education Committee for this concept, we reported it out in the manner that you see before you.

We have required that the Department of Education and Cultural Services conduct a study of the issue of granting credit for fee-based driver education courses and, in conducting the study, the Department give due consideration to the benefits to be derived from and the need to encourage broad participation in driver education programs and the constitutional requirement that the towns provide public education at their own expense.

We felt that this was an alternative that would be acceptable, we hoped that it would be acceptable to the legislature and I think it will be. Rather than issue an "Ought Not to Pass" Report on this bill, we felt very strongly that we ought to explore all options before we take action so we saw this as the prudent route to go and I certainly hope that you will vote against the pending motion before us.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: We have tried to follow this bill through committee and I am very pleased to hear the comments of the Chairman of the Education Committee in terms of the committee agreeing that driver education is a very key component in the daytime activities of students as they move through. It is part of the curriculum.

Former Representative Stevenson had called our office shortly after an operation, had heard through his local school that the program was going to be restricted and was very concerned. I think that helped to bring him back to this body.

Youngsters can always get driver education courses. There are commercial schools out there. I am a former driver education teacher and financially and time-wise, I didn't need to. I taught driver education because it helped build some bridges with some children who may not have been receptive in the classroom but, on a one to two or one to three relationship, doing something together that was really very important to them, it helped open up some good doors in my classroom for the academic side.

I think if we take away the driver ed program from out of the daytime school curriculum, the we are going to drive these youngsters towards the commercial schools which down our way isn't so much a problem because they may only be a few minutes away but in the rural sections of this state, those commercial schools aren't going to be available.

I think the good Representative had seen the problem as a driver education teacher as well -- he knew that if we allowed to have that interpretation or constitutional worry, which hasn't been proven, to remain, we would really be hurting the young people.

I think if you talk with driver education teachers, those that teach in the high schools who are working with youngsters that they see during the classroom, many of them are a great deal like the former Representative Stevenson, he probably didn't make any money because as he found youngsters who went along and couldn't pay the tuition or could only pay part of the tuition (and it is a token tuition) he paid that out of his own pocket. So, it wasn't a money-making venture to the former Representative either.

I understand very deeply the concerns the Chairman has expressed, I think the former Representative has a very good bill, I would urge you to support the motion to indefinitely postpone the amendment so that we can pass the bill and take our chances.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read into the Record from the State Constitution, Article VIII, first part, Section I, Education: "The several towns shall make suitable provisions at their own expense for the support and maintenance of public schools." As we all know, a little interpretation of that section of the Constitution would mean to me that there should be no state revenue, state sharing aid to education, if you read that literally.

This was a simple little bill that was put in and intended to correct something that we had done, I thought, unintentionally, in a prior year. I did not and I don't believe Representative Stevenson intended nor did I as a cosponsor intend for this to become a committee study.

I would ask this House, what is next? Are we going to be asked to repeal high school credits for home economics if they charge a fee to go out and buy cloth to make a dress or whatever? Are we going to be asked to repeal credits for shop if they have to buy wood? The question is, providing a free education to Maine students and to allow them to get a diploma and they can get that diploma without taking driver ed. Driver ed is a voluntary, elective course.

I urge this House to approve the pending motion.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, I would like to reemphasize the Committee Chair's comment about it being a unanimous committee report -- there was solid support for the intent of the bill during the committee discussion but the fact of the matter is, that there is a real question in our minds in regard to the constitutionality. That is what is involved here and I submit to all of you tonight that it is not our place to put our school districts and units in a position that this bill could put them. We accept the fact that there is room for interpretation as the good Representative just pointed out but we feel very strongly and I urge you to consider that that we should get an interpretation. There is no feeling against driver education, I support the idea very strongly myself and I urge you to defeat this motion to indefinitely postpone so we can go on and pass this bill.

The SPEAKER: The Chair will order a Division. The pending question before the House is the motion of the Representative from Thomaston, Representative Mayo, that Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Bost of Orono requested a roll call.

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

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

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I think the overriding goal in terms of driver education in the Maine school systems is to give those young people driving skills and the development of an attitude, especially defensive attitudes, in terms of dangers of the road, that will help carry them through their lives and remain alive. I don't want to be negative in terms of the commercial schools but that kind of attention is more readily available through the school driver education programs. With the number of youngsters coming up qualifying in age, it is an impossibility to teach all those youngsters during the summer. The only way that you can do it is during the school year.

There is supposed to be six hour of driving on the road. Sometimes when they would see a youngster who needed maybe another hour or two of parallel parking or driving in high traffic or driving on the turnpike, they gave that time. I don't think the commercial schools would do that. In terms of looking at the goal of keeping young people alive and having those driving skills, I think that is part of school curriculum and I would hope that we could honor or support this motion to indefinitely postpone Committee Amendment "A."

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

Representative SMALL: Mr. Speaker, Men and Women of the House: I really didn't want to speak on this but I thought maybe by my sitting down that it might seem as though I didn't have an interest in this or that I was not in agreement with the committee report. I am.

I want to clarify what exactly this bill does. All it does is strike the words "but may not allow credit towards a high school diploma for that paid instruction." So what it says is, if schools who cannot afford to run a driver ed program and have it go towards credit, and wish to charge the students which a lot of our communities do now, they may still offer that program and charge the students but they may not use it for credit.

I think it is very important to think of the kind of precedent that sets. If a school is in financial trouble and decides that maybe they will charge the students a fee to take biology because of the lab-expenses or the equipment they use in there, we may find that students are having to pay their way through high school in order to receive the credits they need. This bill, either way, in no way diminishes the programs that are already out there. It simply states that if you are charging for it, you may not give credit. I don't think that will deter children from taking the courses. I know myself when I took it it was not because I was going to get a quarter credit, which I am not sure what good that does unless you can get three-quarters credit elsewhere, but it was because I wanted to learn to drive. That was the best program to take and it was a very good program. To my knowledge, I don't think this bill, one way or the other, will increase or decrease the program. It simply is trying to go along with the Constitution that you cannot charge for a public school education.

I hope that you will vote against the motion to indefinitely postpone this amendment so we can allow the department to further study ways to make driver ed more accessible to students out there without being in violation of the Constitution.

Representative Mayo was granted permission to speak a third time.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: Thank you ladies and gentlemen of the House for allowing me to speak a third time on this issue.

All I am asking the House to do is to go back to the way we operated in this state before we passed an omnibus bill a year and a half ago. We always allowed municipalities, school districts, to award driver ed credits, whether or not they charged a fee for driver ed. That was the intent of the bill and that is what I would like to see you pass simply allowing school districts to award credits.

We are not saying that you have to have driver ed to get a diploma, it is an elective. Again, I just want to go back to where we were before we took that action a year and a half ago.

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

Representative BOST: Mr. Speaker, Men and Women of the House: Although we may disagree on the process here, we agree I believe, Representative Mayo, Representative Murphy and I, on a principle and agree on the concept. I also hope that we agree on the fact that it is preferable to pass laws in this body that stand up to constitutional muster. I am firmly convinced and the committee was firmly convinced that it did not.

This House needs to know that the committee is not wanting to put this issue to rest. If we had wanted to put the issue to rest, it would have come out with a very different report.

What we are simply doing is saying that we believe this issue is valuable enough to have further study and to report back to this legislature by December 15, 1988 at which time I will stand here on this House floor and tell you that I will be pleased

to sponsor or cosponsor a bill identical to this bill if it passes constitutional muster. Or a bill, in a modified form, which would achieve the same end but does so, legally.

I would hope that you would vote against the pending motion.

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

ROLL CALL NO. 229

YEA - Aliberti, Bailey, Baker, Begley, Bott, Bragg, Brown, Chonko, Clark, H.; Cote, Crowley, Curran, Dexter, Dutremble, L.; Farnum, Farren, Garland, Glidden, Greenlaw, Gurney, Hale, Hanley, Harper, Hickey, Hoglund, Hussey, Jackson, Jalbert, Joseph, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Marsano, Mayo, McGowan, McHenry, McPherson, Michaud, Mills, Murphy, E.; Murphy, T.; Nadeau, G. R.; Nicholson, Paradis, E.; Perry, Pines, Rand, Rice, Rotondi, Sheltra, Sherburne, Smith, Stevens, A.; Strout, B.; Telow, Thistle, Tupper, Wentworth, Whitcomb, Willey, The Speaker.

NAY - Allen, Anderson, Anthony, Armstrong, Bost, Boutilier, Callahan, Carroll, Carter, Cashman, Clark, M.; Conley, Daggett, Davis, Dellert, Diamond, Dore, Duffy, Erwin, P.; Foss, Foster, Gould, R. A.; Gwadosky, Handy, Hepburn, Hichborn, Higgins, Holloway, Holt, Jacques, Ketover, Kilkelly, Lacroix, LaPointe, Lawrence, Manning, Martin, H.; Matthews, K.; McSweeney, Melendy, Mitchell, Moholland, Norton, Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Priest, Reed, Reeves, Richard, Ridley, Rolde, Ruhlin, Rydell, Seavey, Simpson, Small, Soucy, Stevens, P.; Strout, D.; Swazey, Tammaro, Taylor, Tracy, Vose, Walker, Warren, Webster, M.; Weymouth.

ABSENT - Bickford, Coles, Hillock, Kimball, Nadeau, G. G.; Pouliot, Racine, Salisbury, Scarpino, Stanley, Tardy, Zirkilton.

Yes, 65; No, 73; Absent, 12; Vacant, 1; Paired, 0; Excused, 0.

65 having voted in the affirmative and 73 in the negative with 12 being absent and 1 vacant, the motion to indefinitely postpone Committee Amendment "A" did not prevail.

Subsequently, Committee Amendment "A" was adopted and the Bill assigned for second reading, Wednesday, March 30, 1988.

(7-4) (H.P. 1756) (L.D. 2405) Bill "An Act to Enhance and Clarify the Role of the State Board of Education" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-550)

(7-5) (H.P. 1793) (L.D. 2457) Bill "An Act to Replace the Abandoned Property Law" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-551)

(7-6) (H.P. 1821) (L.D. 2496) Bill "An Act to Provide a Mechanism for Insurance for Foster Care and Respite Care" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-552)

(7-7) (H.P. 1458) (L.D. 1969) Bill "An Act to Provide Protection from Molestation to Fixed Fishing Gear" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-553)

(7-8) (H.P. 1567) (L.D. 2134) Bill "An Act to Clarify the Laws Relating to Atlantic Salmon Conservation" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-554)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 30, 1988 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(8-1) (S.P. 922) (L.D. 2413) Bill "An Act Relating to Games of Chance" (Emergency) (C. "A" S-361)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed as Amended in concurrence.

The Chair laid before the House the following matter: An Act to Create a State Capitol Commission" (S.P. 966) (L.D. 2563) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

(Off Record Remarks)

On motion of Representative Ruhlin of Brewer, Adjourned until Wednesday, March 30, 1988, at eight-thirty in the morning.

PASSED TO BE ENGROSSED

(9-1) Bill "An Act to Extend the Coyote Night Hunting Season" (H.P. 1895) (L.D. 2590)

(9-2) Bill "An Act to Amend the Youth Fisheries and Wildlife Conservation Education Program" (H.P. 1896) (L.D. 2591)

(9-3) Bill "An Act to Allow the Propagation and Sale of Certain Deer for Food" (H.P. 1897) (L.D. 2592)

(9-4) Bill "An Act to Provide that Places of Public Accommodation Install at Least One Standard Bathroom Stall in Conformance with the Standards of the American National Standards Institute" (Emergency) (H.P. 1898) (L.D. 2593)

(9-5) Bill "An Act Concerning Law Enforcement Education and Training and Funding for Training" (H.P. 1899) (L.D. 2594)

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

ORDERS OF THE DAY

BILL HELD

Bill "An Act to Expand the Membership and Clarify the Role of the Commission on Intergovernmental Relations" (Emergency) (S.P. 790) (L.D. 2078)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (S-354) as amended by House Amendment "A" (H-529) thereto on March 25, 1988.

- In Senate, Senate Adhered to its previous action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-354) in non-concurrence.

- In House, House Receded and Concurred. HELD at the Request of Representative BROWN of Gorham.

On motion of Representative Brown of Gorham, the House reconsidered its action whereby the House voted to recede and concur.

On further motion of the same Representative, the House voted to recede whereby Committee Amendment "A" (S-354) was adopted.

The same Representative offered House Amendment "B" (H-556) to Committee Amendment "A" (S-354) and moved its adoption.

House Amendment "B" (H-556) to Committee Amendment "A" (S-354) was read by the Clerk and adopted.

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

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