

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eleventh  
Legislature***

OF THE

**STATE OF MAINE**

**SECOND REGULAR SESSION**

**January 4, 1984 to April 25, 1984**

**INDEX**

**FOURTH CONFIRMATION SESSION**

**(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)**

**May 31, 1984**

**INDEX**

**FIFTH CONFIRMATION SESSION**

**(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)**

**July 11, 1984**

**INDEX**

**THIRD SPECIAL SESSION**

**September 4, 1984 to September 11, 1984**

**INDEX**

desire.

The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Not to my knowledge, just as there is no law to prevent them from posting many, many posters in their stores to exhort people to drink alcohol.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, I would like to pose another question through the Chair. That question is, am I correct that there is no penalty for failure to follow this law?

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

The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: That was not true of the original bill, there would have been a \$250.00 fine. Now it is my understanding in the other body that an amendment has removed that particular fine. I don't know if we have adopted that yet, Mr. Speaker, I don't know what parliamentary posture it is in.

The SPEAKER: The Chair would advise members of the House that Senate Amendment "B" is not before this body at this time. It will be if the Majority Report is accepted and the body will have an opportunity to deal with that amendment at that time.

The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, is there a fiscal note on this bill?

Mr. SPEAKER: The Chair would advise the gentleman from Eastport, Mr. Vose, and members of the House that the original L. D. 2225, if enacted, would have required an additional appropriation from the General Fund of \$2,350. However, 2384 as redrafted, if enacted, there will be not further additional monies required from Appropriations.

The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: I am proud to serve on the Alcoholic Services Committee, the special select committee, and it seems as though we are going through the same exercise today that we did with the premium bill. The liquor industry has a heavy lobby and I think that is what we are experiencing.

What we are attempting to do with this bill is so simple, education and prevention, and in Alcoholic Services that is the area that I am most interested in, education and prevention.

I am surprised that anyone would object to a little sign. If I am traveling down the road tonight and all at once I see a sign "bridge out," that is education and it is prevention and I am going to be happy to see that because it may save my life and that is what we are talking about.

We had a lovely lady here this morning that gave the payer and she said that she prayed that we had the wisdom and the will to do what is right and good and that is what I am going to attempt to do this afternoon.

Mr. Rolde of York requested a roll call.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

Mr. SPEAKER: The pending question is on the motion of the gentleman from Eastport, Mr. Vose, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 433

YEA—Ainsworth, Andrews, Armstrong, Baker, Beaulieu, Benoit, Bonney, Bott, Brown, D. N.; Carter, Conary, Connors, Cote, Day, Dillenback, Erwin, Foster, Gauvreau, Greenlaw, Hall, Jacques, Jalbert, Joseph, Kelleher, Kiesman, Lebowitz, MacEachern, Macomber, Mahany,

Martin, H. C.; Masterton, Matthews, K. L.; McPherson, Michaud, Moholland, Paradis, E. J.; Paradis, P. E.; Perkins, Racine, Reeves, J. W.; Ridley, Roberts, Robinson, Roderick, Rotondi, Salsbury, Smith, C. B.; Soule, Strout, Swazey, Tammaro, Theriault, Vose, Webster, Willey, Zirkilton.

NAY—Allen, Anderson, Bell, Bost, Brannigan, Brodeur, Cahill, Callahan, Carroll, D. P.; Carroll, G. A.; Cashman, Chonko, Clark, Connolly, Cooper, Cox, Crouse, Crowley, Curtis, Daggett, Davis, Dexter, Diamond, Drinkwater, Gwadosky, Handy, Hayden, Hickey, Higgins, H. C.; Higgins, L. M.; Hobbins, Holloway, Ingraham, Jackson, Joyce, Kane, Kelly, Ketover, Kilcoyne, Laplante, Lehoux, Lisnik, Livesay, Locke, MacBride, Manning, Martin, A. C.; Masterman, Matthews, Z. E.; Maybury, Mayo, McCollister, McHenry, McSweeney, Melendy, Mills, Mitchell, E. H.; Mitchell, J.; Murphy, E. M.; Murphy, T. W.; Murrey, Nadeau, Nelson, Norton, Parent, Perry, Pines, Pouliot, Randall, Reeves, P.; Richard, Rolde, Scarpino, Seavey, Sherburne, Small, Smith, C. W.; Soucy, Stevens, Stevenson, Stover, Tuttle, Walker, Wentworth, Weymouth, The Speaker.

ABSENT—Brown, A. K.; Carrier, Dudley, McGowan, Michael, Paul, Sproul, Telow, Thompson.

56 having voted in the affirmative and 86 in the negative, with 9 being absent, the motion did not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Senate Amendment "B" (S-362) was read and adopted and the Bill assigned for Second Reading later in today's session.

The Chair laid before the House the following matter:

Bill "An Act to Increase the Minimum Wage to \$3.55 (S. P. 835) (L. D. 2236) which was tabled earlier and later today assigned pending further consideration. (In House, indefinitely postponed; in Senate, adhered to its former action whereby the Bill was referred to the Committee on Labor)

Mrs. Beaulieu of Portland moved that the House recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker and Members of the House: I don't want to take a lot of time with debate but there are a few remarks I would like to make before we cast our vote on this issue.

Obviously, I am in support of the gentlewoman from Portland, Representative Beaulieu, and would hope that the House would recede and concur.

Last year, after the debate on the minimum wage issue that was before us during that session had been completed, I recall the discussion that I had with Representative Zirkilton about what had happened in this body on that particular piece of legislation. I commended and congratulated him, even though we were on opposite sides of the issue, on what I perceived to be the fine job that he did in carrying the debate for his position not to increase the minimum wage on the floor. I told him the perception that I had and some other people that I had talked to had, that he had been left hanging out to dry, so to speak, by his leadership in his corner and by other members of his party in debating that issue, because really it was he and to some degree Representative Robinson who carried the debate against increasing the minimum wage. I told him how I thought that that was unfortunate and probably should have gotten some help from some other people who believed in that issue and his position but that I thought he had done a good job. So it wasn't with any great deal of surprise that the other night when we voted on this issue that Representative Zirkilton did have some support for killing this bill. The thing that surprised me, however, was where that support came from. It was a member of my party, a member of the Democratic Party that stood on this floor and made the motion to kill the bill and that ended up being the vote of this body

that night.

We have a chance today to redeem ourselves from that position and to allow this bill to go to a public hearing. I am not sure whether the votes are there to allow that to be done or not. But the thing that bothers me, I guess, about this is how so many members of my party, on an issue that affects those folks at the lowest rung of the economic ladder, those folks for whom the principles of the Democratic Party have always said we stand up and we fight for you, how members of my party could stand up to a significant degree, I believe there were 25 or 27 people, I am not sure now, maybe I have the numbers wrong, but a significant number from my party that at least the other night voted to kill this bill.

We all, at one time or another, I have been here a long time and we all one time or another vote on an issue contrary to the way we believe and we vote that way sometimes to please a certain group of people back home or the issue doesn't mean a whole lot to us perhaps, and we do it because it is perhaps expedient. There comes a time, and it is different for each of us I suppose, but there comes a time when there is a dividing line between expediency and principle, and at least with the Democratic Party the minimum wage has always been one of those issues of principle and to say that we here would not at least allow this bill to go to a public hearing I think is a mistake.

Representative Gwadosky the other night in trying to justify his position gave really two arguments. He said that there were other issues that we ought to consider, we ought to consider those people who aren't covered by the minimum wage. Those other kinds of issues are extraneous to this discussion. In all the years that I have been in the legislature, whenever we have debated an increase in the minimum wage, it has just been that issue, whether we should include other people or not have been addressed in other bills, so that is a false argument.

The other argument that he made was that we only had I think at that time nine or ten days left in the session and that we really didn't have sufficient time to debate the issue, hold a public hearing and debate the issue. Well, ladies and gentlemen of the House, if we could get a two-thirds vote today, we could suspend the rules and we could forego the public hearing and we all know the arguments and we could debate the bill, we don't need to go through that if we don't want to. But at the very least, as a matter of principle, because there hasn't been an increase in the minimum wage since 1981, because the cost of living has increased more than 16 percent since 1981, and because those people who are paid minimum wage are the people the Democratic Party has always stood up and fought for, I would urge this House to support the motion to recede and concur.

Mr. Speaker, I would request a roll call.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Members of the House: I, too, would urge you to send this to committee. I don't mind the committee studying it, I may vote for the bill later or against it, but I resent one man or any man standing before this body and tell about what the Democrats have done and I am a Democrat. The Democrats I know have tried to help people as well as the other party has and the Independents have in this House.

I have voted for raising the minimum wage on several occasions in this House. If my memory serves me correctly, the last time around I voted against it because here is what I saw and why I did. When we raised the minimum wage by a few cents or a dime, we were raising the other end a dollar or two and this was making the poor people that I represent worse off.

If I hear from the hearing this time that the people can get a raise, I wouldn't mind going up to \$4.00 an hour on the minimum wage if they wouldn't raise the maximum to \$5.00. This is what has happened in the past and then every-

body was worse off, even the poor man that we were trying to help.

I am sure that the other party in this House wants to help working people as well as the mentioned Democratic Party, but they are also cautioned that this thing doesn't happen like it has in the past; when we raised the poor man 20 cents, we used him for a sucker. You would give him 15 or 20 cents and the other end they raised \$5.00 or \$3.00 so he is worse off. A loaf of bread goes up a lot more than his raise and this is what I want to be cautious about, I want the House to be cautious about this same matter.

However, I think the House in their good judgment should send this to committee and let's properly hear it and perhaps we will all gain some information that would help us.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: We have just heard two gentlemen speak in favor of allowing this bill to have its public hearing, one person evidently in favor of it or the substance of the bill; one person evidently opposed. I think that that should tell us something.

When this bill faced us several nights ago, it was late at night after a long day, and also provided a vehicle to dispose of something that may be distasteful to all of us. To the proponents of an increase in the minimum wage, I don't think there is any question that the winds are changing a little bit and the bill that with a large Democratic majority would have once steamrolled this place now certainly won't do that and it is because they are good people who differ, but that is what this process is all about.

We just finished a filing deadline for those of us who are coming back here to ask the people in our towns to give us something, to give us the right to work for them, to give us a chance to represent them here and to make sure that their voice is heard. I wager that there isn't a one of us that doesn't have in our districts people that are on both sides of this issue.

I think there is an illusion that by some slight of hand, some whip of the rules of this process, that somehow we have avoided taking a stand on a difficult issue. I think if we ask ourselves, and one of the things that I did coming into the end of this filing period where we announced our intention whether or not we were going to run again, one of the thoughts that went through my head was, why is it that so many of our neighbors, maybe they like me but they don't like politicians, they will vote for me because they like me but they sort of shake their heads and say—I wonder why he wants to take up his time doing that sort of thing? Cynicism in this business runs rampant and I think every single time that we try to gag this process, that we try to cover up a tough issue, that we try to guard that box with the green and red lights on it thinking that maybe we won't have to show our true opinions so people back home can say that they agree or disagree with us, every time we do that, we make a truth out of the proposition that I always hoped was not true, and that is that we really don't represent anybody but ourselves up here.

We have a job to do and my job is not taking care of me and your job is not taking care of you and part of your job is standing up and doing what is right and giving this process a chance to work. In the end, you know, you talk about all these freedoms and rights we have in this country, they are all processed, they are all procedure, that is the way this system works so people have a right to differ, people have a right to fight things out. In my humble opinion, we made sure that that process didn't work last week. We have a chance to undo that and let a very controversial, very uncomfortable bill have its day and have the people who have strong feelings on both sides tell what their opinion is. It is beyond me how any of us can tonight close our eyes when we are going to sleep and say that we have done our job if we help that process

stay halted by not giving this bill a chance to go to hearing. Any reason that I have heard is just eye wash or mouth wash and I suggest that we ought to spit it out and do our job.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I guess I would urge you to oppose the motion to recede and concur and would urge you to help defeat that motion so we can then move to adhere to the former position this House took Thursday evening.

I think it is very difficult for us to be objective today about minimum wage because it is an issue that we are all concerned about and concerned about the people that it affects. I think we are making a mistake today if we simply focus our attention to the issue of minimum wage, because what we are talking about today is not just minimum wage, we are talking about a much broader issue. We are talking about Joint Rule 37.

I have had the opportunity to read the ruling of the Speaker on Joint Rule 37 and I have done it at least three times word for word, and there is no doubt in my mind that given the language in the little book that you have there of Joint Rule 37, that the Speaker had no choice but to let that legislation in and I agree entirely with the ruling.

In the past, Joint Rule 37 has been very narrowly construed to allow for the greatest consideration of legislation. Whenever there has been a close call, the Speaker has ruled that a block in the form of a ruling shouldn't be the determining factor for not allowing the legislation. In other words, the will of the chamber by majority vote should determine what should be allowed in, what shouldn't be allowed in, so we have every right in the world today to be discussing whether or not we want to discuss this issue this year or not. In other words, even though this bill doesn't violate the letter of Joint Rule 37, perhaps it violates the spirit of Joint Rule 37.

I think we want to be very careful in our actions today because we could be setting a precedent by allowing this bill in.

For example, let's say this wasn't minimum wage, let's say that this was a bill to reestablish the death penalty by electrocution and that bill was defeated—if we go ahead and allow minimum wage in this year, there is nothing to say that we couldn't allow the death penalty, to reestablish it, by lethal injection, different bill, different method, same purpose, same end, same result, so what could occur is that each and every session we could find ourselves dealing with not only minimum wage but each and every session we could find ourselves dealing with the death penalty, abortion, gay rights, school prayer and if the political numbers happened to be reversed in here, the right to work. The second session could become as long as the first session.

There is a reason for Joint Rule 37, it is because the people of the State of Maine don't, for the most part, need to have us addressing these issues every single year. The people of the State of Maine can't afford to have us become a full-time legislature and address these issues every single year. Goodness knows, they barely can afford us now.

Allowing this minimum wage bill in today can lead and will lead to a greater proliferation of bills. Do you really think that this bill is different from the bill that we had in last year? I know that it takes a lot of courage to vote against a bill like this particularly in an election year and that is probably why it is before us, but I have faith in the members of this body to make the right decision and I would urge you to vote against the pending motion to recede and concur so that we may vote to adhere.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Fairfield, Mr. Gwadosky, has raised some interesting questions but questions I believe have

no bearing on the issue before us. Mr. Gwadosky is concerned that the intent and spirit of Joint Rule 37 has been violated and would be violated if we allow this bill to go off to a public hearing. But what he is not discussing is the fact that the Speaker has made the ruling and that that becomes the determining factor, that the Speaker has said that this bill is properly before the body, that it does not violate Joint Rule 37.

There was some concern before the Speaker's decision came down as to whether or not that was, indeed, the case, whether or not it did, indeed, violated that rule. We, as individuals, have the ability to debate that but the fact of the matter is, in the determination of the presiding officer of this body, this particular piece of legislation is properly before us and is proper under the rules that this House and this legislature have adopted. So I don't think we should debate this issue based on whether or not we believe that Joint Rule 37 applies.

That being said, I think it is important to reiterate what Representative Hayden said, that we have an obligation here to do something for the people of Maine, address a problem that has not been addressed adequately in the last few years and obviously it is a problem and a concern of the people of this state.

We have, as a legislature, an obligation to decide whether or not the public is going to be allowed to debate an issue that is, indeed, before this body, it is before us, yet we are trying to pass judgment on it before giving the public an opportunity to debate it.

There have been similar issues debated in previous sessions, there will always be similar issues and we have gone to great lengths this session to try to limit what we have been able to debate and offer to the people of this particular chamber and the other one. But the fact of the matter is, the question is not whether or not we like the rules, not whether or not rules have been violated because that determination has been made. I don't want to see this becoming a symbolic effort on the part of some to try a rules reform because this is not the type of legislation, this is not the arena in which to do it. We will have the opportunity if you are dissatisfied with the rules to deal with them later on.

The issue before us is one issue and that issue is, should the minimum wage bill go to a public hearing? I believe that it should and I ask for your support.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Baker.

Mr. BAKER: Mr. Speaker, Members of the House: There are only three issues that I intended to speak on for this session, Fort Gorges, county budget and the minimum wage. I think now is the time to speak.

I was somewhat reminded when I found out about the vote last week of an incident that took place many years ago in Ireland and the Representative from Bangor, Representative Kelleher, probably is very much aware of this story, when at a performance at the Abbey Theater, the crowd had rioted over a performance of an O'Casey play. William Butler Yates stepped out to address the angry crowd, looked them straight in the eye and said: "Well, you have disgraced yourselves again." That is the way I think I feel when the issue of the minimum wage is not let to a hearing and the political party which I have belonged to for the past 14 years kills that bill.

The spectacle of legislators considering raising the compensation for the next legislature and judges while defeating the minimum wage for the least organized and represented people in this state is sickening. The very least we can do is recede and concur and let the bill go to a hearing.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address myself to the Assistant Majority Floor Leader of my party when he talked about the issue concerning this bill. The issue concerning this bill, Mr. Dia-

mond, is fairness, that is the issue. I put in a bill, and you remember the Council voted on it, the same time that my friend, the Representative from Portland, Mr. Connolly, put his bill in that there would be no more bills put in if they didn't tolerate one another, the \$40 million bill that was defeated by the people in a referendum. This has no referendum on it but it was defeated.

I had a bill drafted to the effect that that would not happen again. The bill was turned down by the Council of which you are a member. I wrote a letter asking you to reconsider because what is sauce for the goose is sauce for the gander and that is my point, fairness.

I am voting for this bill, I am voting to reconsider because I feel that I want them to have a hearing, that also is fairness, but not for the reason that you gave. The next time a certain bill comes up in another bill that is much more important, particularly in view of the fact that it has been defeated by the people, I would suggest that you give it a second thought instead of taking it to one side. It didn't take you one second to toss that bill to one side. I know because I had somebody there because I couldn't be there, I had to be at work.

I am voting for this bill, the labor movement is behind it, 20 cents isn't all the money in the world anyway and I wouldn't want Representative Beaulieu not to talk to me anymore so I am going to vote for it but let's not go into any other reasons but fairness, that is the reason why this bill should go to committee, fairness.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: When I first came to this body in 1969 I can remember the older members of the House and two of them are still here, Representative Jalbert of Lewiston and Representative Dudley of Enfield, and they used to tell or try to instill in us new members that were there in the class of 1969 that we repeatedly delegate the authority of the people of Maine to the department heads of this state. What they were saying was that we really were taking the control out of the hands of the citizens of this state and giving it to the department heads. Then the legislature in its wisdom had a number of reforms, most of them I voted against because I had the naive idea that this was the people's body, that the citizens of this state still had an opportunity to present its case whether I agreed with it or not on any given day. So we reformed the legislature and we redrafted the rules in the description of expedience to make things work quicker and faster. But you know, all we ever did and what we continually do here is take the rights of the people of Maine away from them.

The only conduit that the 120,000 people that are on minimum wage have in this state to get an increase is through you and I as legislators.

Mr. Gwadosky, I have to say, should get the award for 1984 for giving the weakest argument that I have ever heard in regards to rules. You know something, ladies and gentlemen, I know something about the rules, not as much as most of you, and certainly not as much as the Speaker knows, but I do understand them to a minor degree which makes me dangerous.

If anyone wants to question the authority of the Speaker, I say all you have to do is have the moxie to do it. If you want to defeat a bill, all you have to have is the moxie to do it and you can do it on its arguments and on its merits but not circumventing our own intelligence by such a weak, weak argument on what we were doing with Joint Rule 37.

If you are for the minimum wage bill, fine; if you are against it, that is all right too, but give it a chance to be heard, give those people a chance to be heard.

This is a very, very hot political issue. The easiest thing would be, I would say, is to duck it, to duck the issue of letting it be heard because what happens then if it goes to a committee? Then you have to vote on it. You can talk around it if you don't allow it to go to a committee but

you have to ultimately vote on it when it comes back. I would urge the House to send it to the Committee on Labor or whatever it is going to go and not continually take the rights of people away from them without us having an opportunity to hear it.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I really hadn't intended to get up twice on this bill. I find myself looking in my rearview mirror as it is when I go home. Let it be known that nobody enjoys the gentleman from Bangor, Mr. Kelleher, more than I, and he certainly is a master at injecting emotionalism and intimidation into his speeches whenever he has the opportunity. When that doesn't work, it is always good to discredit the person who is speaking in opposition to you.

Let me just address a point that was made. We are hearing a lot of talk today about the sacredness of the political process, the sacredness of the democratic process, and no one is more surprised than I am to hear my Assistant Majority Leader give up the rights of the individual members of this body to one person on any given day and I am amazed that he would say such a thing but he certainly has the right to say that.

We have heard time and time again that the democratic process is sacred and that our actions should be consistent with that, but our actions of late have been far from consistent and our actions of late have been far from representativeness. For example, last Thursday, you might remember, we got out of session, went over lunch a little bit, we were going back in at four o'clock and the Committee on Taxation had a bill in the afternoon, they had a couple of bills, meals and lodging and a bill for tax exemption for churches, I believe, a room packed full of people, 50 or 60 people, and they limited testimony to a half an hour for each side. Obviously, a lot of them didn't get to speak.

There was one guy there that traveled 120 miles and wasn't allowed the opportunity to speak. Is that the democratic process we are talking about? Whose fault is that? Obviously, it is not the Taxation Committee's fault, it is not the Chairmen's fault. We know them, they work here, they work about as hard as any other committee here, it is the fault of the process. Towards the end of the session, we are going in and out, we just don't have the time that we do at the beginning of the session.

This bill you are talking about, that is before us now, was originally introduced and was approved by Legislative Council December 14, 1983. We know that the first bill had a technical problem and we had to get another bill, which was approved December 14th, took 12 weeks to actually get involved into the legislative process particularly a bill that only changes one or two digits. There is a reason why these bills are put in at the end of the session and you and I know exactly what the reason is. If you listen to those folks today who will tell you that it is important to give and fair to give equal consideration to every single legislation, I don't think they are fooling everybody. The reason these bills are in at the end of the session is obvious and I don't have to spell it out but I would be happy to if somebody asks.

I want to address one other point. Last week, you people were aware we had no public hearings on a lot of bills. We engrossed a lot of bills without public hearing, we did one today. The Senate sponsor of this bill, last week when asked to explain the actions of the other body in killing the 21 year old drinking bill, it was in the Lewiston Sun and I will quote it, when asked to explain their actions of indefinitely postponing the 21 year old drinking bill without reference to a hearing, he said: "There is not a mood out there right now to do anything to delay the end of the session. Taking up a bill which would require a hearing would add three days to the session." It appears that that bill is scheduled for public hear-

ing now, and whether this bill had anything to do with it, we will never know.

Regardless of the situation, we are still faced—regardless of the facts that led to it, we are still faced with a tremendously important piece of legislation at the waning days of a legislative session, and I have to believe that it could have been avoided. If you really want to show some respect for the process, let's send a message today to ensure that these important matters will in the future be brought to us in a more timely fashion so that we can give them the fair and just treatment that these bills deserve.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, if I led the gentleman from Fairfield to believe that I was advocating the abandonment of our individual rights to speak out on the issues or to vote anyway that we would like, that is not the case, I certainly did not mean to imply that. What I was saying is that I hate to see this issue, which to some is a disagreement over the interpretation of Joint Rule 37, become a symbolic gesture of frustration on the part of the gentleman from Fairfield and others because it is too significant an issue to allow that to happen.

There are men and women out there, a hundred thousand people who receive minimum wage for their employment, and I would hate to see us abandon our responsibility and justify that action by saying, well I didn't like the fact that the presiding officer, the person who is in a position to interpret the rules and the rules that we have to play under, I didn't like what he had done and the way he interpreted it so I made a symbolic vote against the issue, not because I disagree with the consideration of minimum wage, oh, I like it, it is great, but I don't like the idea that we have to take it up this session. I disagree with that.

The fact of the matter is, the issue is before the body, we are down to debating one issue and that is whether or not this bill goes to a public hearing. This legislature has taken action on a couple of bills earlier this session, a few weeks ago as a matter of fact, dealing with political action committees where we first defeated the bill and then brought it back because we knew better than to deny the public the opportunity to speak out on the issue. We did so on the drinking age bill, the 21 year old drinking age bill; again we reconsidered our action and regardless of how you feel about the issue, I think everyone who voted to allow that bill to be heard did the right thing.

Regardless of how you feel about the minimum wage issue, I think each and every one of us has an obligation to allow the public to speak out on that issue, to respect the interpretation of the rules of this body and of this legislature, and if you don't like it, then there are other avenues that you can take in order to change it, but the fact of the matter is, you have that one question that has been said time and time again during this debate, the question of whether or not this bill will go to a public hearing, considering the interpretation of the presiding officer, considering the fact that this is the only issue we are to vote on, then I think it is incumbent upon us to express our desire to allow that to be heard. No other issue should be before this body, no other issue should be debated.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 434

YEA—Ainsworth, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A. K.; Carroll, D. P.; Carroll, G. A.; Carter, Cashman, Chonko, Clark, Connolly, Cox, Crouse, Crowley,

Diamond, Dudley, Erwin, Hall, Handy, Hayden, Hickey, Higgins, H. C.; Hobbins, Jacques, Jalbert, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, Léhoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A. C.; Martin, H. C.; Matthews, Z. E.; Mayo, McCollister, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, E. H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P. E.; Paul, Reeves, P.; Richard, Rolde, Rotondi, Smith, C. B.; Stevens, Swazey, Tamarro, Theriault, Tuttle, The Speaker.

NAY—Allen, Anderson, Armstrong, Bell, Bonney, Bott, Brown, D. N.; Cahill, Callahan, Conary, Connors, Cooper, Cote, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Gwadlosky, Higgins, L. M.; Holloway, Ingraham, Jackson, Joseph, Kiesman, Laplante, Lebowitz, Livesay, MacBride, Masterman, Masterton, Matthews, K. L.; Maybury, McPherson, Murphy, E. M.; Murphy, T. W.; Paradis, E. J.; Parent, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J. W.; Ridley, Roberts, Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C. W.; Soucy, Soule, Stevenson, Stover, Strout, Vose, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Carrier, Gauvreau, McGowan, Michael, Sproul, Telow, Thompson.

73 having voted in the affirmative and 71 in the negative, with 7 being absent, the motion did prevail.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT: Majority (7) "Ought to Pass" in New Draft (Emergency) (H. P. 1819) (L. D. 2411)—Minority (6) "Ought to Pass" in New Draft (Emergency) (H. P. 1820) (L. D. 2412)—Committee on Transportation on Bill "An Act to Amend Certain Motor Vehicle Laws" (H. P. 1444) (L. D. 1889) which was tabled and later today assigned pending the motion of the gentleman from Limerick, Mr. Carroll, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Mechanic Falls, Mr. Callahan.

Mr. CALLAHAN: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you not to vote for the Majority Report and I will try briefly to explain why.

The Majority Report includes a bill that will allow a 10 percent tolerance on all trucking and for many years the trucks have had that 10 percent tolerance to haul forest products, road salt, building materials, transit mix concrete, farm products, concrete products, highway material and products requiring refrigeration and there has never been a charge for this tolerance. Effective this year, March 1st, the truckers must buy a special commodity permit and the cost can be up to \$360. This is also on top of a higher registration fee.

For example, a five axle truck in 1983 cost \$816 to register and put it on the road; now it costs \$1,048 including the commodity permit.

Prior to this year, if a vehicle exceeded the 10 percent, the weight reverted back to the basic road limit and this was okay because there was no pay by the owner for this tolerance. A five axle truck, for example, with the commodity permit can be registered for 80,000 pounds and the 10 percent would make it 88,000. If he was caught overloading 2500 pounds, a total of 90,500 pounds, then it would revert back to 80,000 which is 38 percent in violation or a \$460 fine. If he got credit for what he had paid for, the violation would go back to 88,000 or 2 percent or a \$45 fine.

A triaxle dump truck, so-called, is registered today for \$625, it is just \$100 more in fees than it was last year. His special commodity permit cost \$362; it cost nothing last year. But if he is caught overloaded, he can be legally licensed for 64,000 pounds, but if he is caught 2500 pounds over, he drops back to 48,000, which is a 30 percent violation or a \$700 fine. If this amend-

ment passes, it would only be a 3 percent violation or a fine of around \$30.

There are other problems with this bill, especially hauling gravel, sand and stone. The specific gravity of different materials can vary 6 or 7 percent, and when you have absolutely no tolerance, which this law says, we had 10 percent years and years before and it was easy to stay within the limit, now no one dares to come anywhere near that limit because if you went over even a thousand pounds it reverts back to the original limit without the commodity permit. I think it is very unfair, it is unjust.

I realize that trucks do more damage than automobiles to roads, but I would like to remind you that the trucks pay dearly for fuel tax, gas tax, they have an increase in their fees, and this was not specifically in the Speaker's amendment of the gas tax last year nor was it in any bill that I saw. This is a regulation that has been made without mention in any bill that I could find.

I think there is no question that the trucks need to pay more money and that is exactly what we are doing, but I feel this is a little too restrictive. I would ask you to defeat the motion on the floor so that we can accept the minority report, which will do away with this bill.

Mr. SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I would like to be excused from voting on account of the conflict of interest Rule 19.

The SPEAKER: The Chair would grant the request of the gentleman from Lewiston, Mr. Jalbert.

The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I rise in a certain amount of reluctance today because I am well acquainted with the problems of the trucking industry, but I am also well acquainted with the problems of maintaining the highways of this state. Over the years I have heard many many times, those Canadians keep coming over here and traveling on our roads with a Canadian registration which we have a reciprocal agreement with, and this particular commodity permit is the only way we can get back at those Canadian trucks that are coming over here. That is one instance right there of one of the reasons why I would like to see us keep this commodity special permit.

Also, ladies and gentlemen, if we do away with the cost of this commodity permit, we are telling them, go ahead, overload, we are going to give you the privilege of overloading without being assessed an additional penalty. The commodity permit gives you the privilege on an 80,000 registration to go to 88,000 and then when you are in violation of the law because you have overloaded, you have exceeded the 88,000, then you drop back 8,000.

In the past, we always gave this commodity permit without charging any fee for it, but when we changed the law last year, we decided that we would have to have a fee for a commodity permit. One of the big reasons behind it was, we had a severe problem with continual overloading on our highways, we had a severe revenue problem, and we just had to make the fine system a system that would make people think twice before he violated the law.

I have people in my district that have trucks and they have complained to me about the truck weight bills and the penalties they pay in court. I recall very clearly one young man standing in my driveway and complaining and I said, just what can you haul legally on this truck? He said, six and a half cords of pulp. I said, at quarter of four yesterday morning you woke me up going by; how many cords do you have on? He said eleven and a half.

Ladies and gentlemen, the shoulders on the road in front of my house are practically caved in because of overweights. They know when to haul, they haul in the wee hours of the morning and they haul late at night and they know full well they are violating the law and destroying

the roads because they are overloaded. They overload deliberately knowing that they can win enough time so they will have money enough left over to pay their fine and continue to operate that way and beat the system.

I would urge you today to vote against the motion and to accept the majority report. I think we have tried to be fair. I went over to the Attorney General's Office last Friday afternoon and spent two hours going over this commodity legislation because I had been told it was not fair. After it was explained to me how the law operates, I was satisfied and I came back and I supported the majority report.

I certainly hope that you remember the people out there that have to travel our highways back and forth to work in an automobile. We know we need the trucking industry, we know everytime we make them pay an additional cost that it costs more for that particular product, but we have to bear that cost in order to maintain our highways and that, ladies and gentlemen, is the problem that your Department of Transportation is faced with today. You gave us a 5 cent increase in the gas tax and what happened—we have got so many claims for the money that we meet over and over again trying to decide just where this money has to go. Give us a chance to catch up. I hope we don't have to continue to play the game of catch-up, catch-up, catch-up, because it is really discouraging to have someone call you and say, do you know there are ruts four inches deep on the road up here and they can't even plow this road because the heavy weights have destroyed the surface?

Give us the opportunity to address the problem and we will try our best to see that for every gallon of gas you buy, you will get something in return besides a broken up highway.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. MCPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: The people that Representative Carroll referred to that legally can haul six cord and are hauling eleven, I don't think there is anything we can do other than stricter and stricter enforcement to get to these people. It is the fellow or firm out there, we are taking his money whether it is for 54,000 or 88,000, and in fairness, all we are asking is to start the fine at 54,000 or 88,000. If he is hauling construction material such as gravel and what not, he has no way of knowing the water content of this. We are going to nail him at 54,000 and start his fines back at 48,000. It just isn't fair.

Those that signed the minority report, that is all they are asking for. Let's just use them fairly. We are taking their money, so let's give them a little bit of a break.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I heard Representative Carroll here this evening mention that there is going to be a loss of the commodity permits. I hope that is not correct because it was not my intention to sign out a report that had any dealing with any loss of revenue as far as permits or registration fees. The only thing that I could see is there might be a loss of the fines.

I guess the best way that I was able to cope with this and the easiest way to explain it to you is to use one type of vehicle, so I am going to use the largest type of vehicle and give you an illustration of the old law as I saw it before we passed the allocation last year.

Previous to last year, an 80,000 vehicle was allowed a 10 percent tolerance free, which allowed him to haul 88,000 pounds. What happened last year in the L. D. that we passed, we gave them a 10 percent tolerance but now we are charging for it. We are charging those people who go from the 80,000 and other vehicles would be under the same proportion but those people who go from 80,000, now to 88,000, have to pay for that tolerance. What is happening out there is, if you are hauling more than the 88,000, you get picked up, the fine goes back to the 80,000. This