

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME I**

**FIRST REGULAR SESSION**

December 7, 1988 to May 10, 1989

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
55th Legislative Day  
Thursday, May 4, 1989**

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

Prayer by Pastor Bruce Felt, Augusta Baptist Church.

The Journal of Wednesday, May 4, 1989, was read and approved.

Quorum call was held.

**PAPERS FROM THE SENATE**

Bill "An Act to Expand the Maine State Retirement System for Reemployed Individuals" (S.P. 527) (L.D. 1444)

Came from the Senate, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed. Was referred to the Committee on Aging, Retirement and Veterans in concurrence.

Bill "An Act to Provide Greater Legislative Oversight of Teacher and Administrative Certification" (S.P. 524) (L.D. 1441)

Resolve, to Establish a Commission to Study the Provision of Services by Schools for Students Leaving Substance Abuse Treatment Centers (EMERGENCY) (S.P. 525) (L.D. 1442)

Resolve, Funding a Bachelors of Science in Nursing Program at the University of Maine at Augusta (S.P. 526) (L.D. 1443)

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

Were referred to the Committee on Education in concurrence.

Bill "An Act to Amend the Charter of the Rangeley Water District" (S.P. 528) (L.D. 1445)

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

Was referred to the Committee on Utilities in concurrence.

**Unanimous Leave to Withdraw**

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Amend the State Antitrust Laws" (S.P. 308) (L.D. 807)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Regarding Negotiation of a Worthless Instrument" (S.P. 319) (L.D. 856)

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

**Refer to the Committee  
on State and Local Government**

Report of the Committee on Judiciary on Bill "An Act to Regulate Child Support Enforcement by the Department of Human Services" (S.P. 503) (L.D. 1377) reporting that it be referred to the Committee on State and Local Government.

Came from the Senate with the report read and accepted and the bill referred to the Committee on State and Local Government.

Report was read and accepted and the Bill referred to the Committee on State and Local Government in concurrence.

**Ought to Pass**

Report of the Committee on Agriculture reporting "Ought to Pass" on Bill "An Act to Enhance the Integrated Pest Management Capabilities of Agriculture in Maine" (S.P. 357) (L.D. 958).

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Senate Amendment "A" (S-79).

Report was read and accepted, the Bill read once.

Senate Amendment "A" (S-79) was read by the Clerk and adopted and the Bill assigned for second reading Friday, May 5, 1989.

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

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

**Aging, Retirement and Veterans**

Bill "An Act to Fund the Maine State Retirement System for Certain Employees Previously Covered by the County Retirement System" (H.P. 1062) (L.D. 1484) (Presented by Representative CONLEY of Portland) (Cosponsored by Representative GURNEY of Portland and Senator BRANNIGAN of Cumberland)

Ordered Printed.

Sent up for Concurrence.

**Agriculture**

Resolve, Concerning Africanized Bees (H.P. 1055) (L.D. 1477) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Representative BAILEY of Farmington, Representative SMITH of Island Falls and Representative SWAZEY of Bucksport) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

**Business Legislation**

Bill "An Act to Amend the Real Estate Brokerage License Laws" (EMERGENCY) (H.P. 1068) (L.D. 1490) (Presented by Representative MILLS of Bethel) (Cosponsored by Representative JACKSON of Harrison, Senator TWITCHELL of Oxford and Senator ERWIN of Oxford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Resolve, to Establish the Commission to Study Real Estate Appraiser Certification and Licensing (H.P. 1069) (L.D. 1491) (Presented by Representative ALLEN of Washington)

Ordered Printed.

Sent up for Concurrence.

**Education**

Bill "An Act to Alter Cost-sharing Agreements Among Municipalities in School Administrative Districts" (H.P. 1066) (L.D. 1488) (Presented by Representative SEAVEY of Kennebunkport)

Ordered Printed.

Sent up for Concurrence.

**Energy and Natural Resources**

Bill "An Act to Exempt Shooting Ranges from Noise Control Standards" (H.P. 1058) (L.D. 1480) (Presented by Representative JACQUES of Waterville) (Cosponsored

by Representative MICHAUD of East Millinocket, Representative ROTONDI of Athens and Representative FARREN of Cherryfield)

Bill "An Act to Regulate the Storage, Treatment, Disposal and Transportation of Medical Waste" (H.P. 1071) (L.D. 1493) (Presented by Representative BOUTILIER of Lewiston) (Cosponsored by Senator TITCOMB of Cumberland, Representative JACQUES of Waterville and Representative HOGLUND of Portland)

Bill "An Act to Prohibit Dumping Waste on Sebago Lake" (H.P. 1060) (L.D. 1482) (Presented by Representative STROUT of Windham) (Cosponsored by Representative GREENLAW of Standish, Representative SIMPSON of Casco and Senator TITCOMB of Cumberland)

Ordered Printed.  
Sent up for Concurrence.

#### Fisheries and Wildlife

Bill "An Act to Promote Landowner Relations" (H.P. 1057) (L.D. 1479) (Presented by Representative JACQUES of Waterville) (Cosponsored by Representative TAMMARO of Baileyville, Representative CARROLL of Southwest Harbor and Senator ERWIN of Oxford)

Bill "An Act Relating to Maine Hunting Licenses" (H.P. 1065) (L.D. 1487) (Presented by Representative HEPBURN of Skowhegan) (Cosponsored by Representative SMITH of Island Falls and Representative CARROLL of Southwest Harbor)

Ordered Printed.  
Sent up for Concurrence.

#### Human Resources

Bill "An Act to Make General Assistance More Available to Homeless People and Clarify the Definition of Need" (H.P. 1061) (L.D. 1483) (Presented by Representative CLARK of Brunswick) (Cosponsored by Representative MANNING of Portland and Senator ANDREWS of Cumberland)

Bill "An Act to Extend Medical Assistance under and Clarify Certain Provisions of the Additional Support for People in Retraining and Education Program" (H.P. 1072) (L.D. 1494) (Presented by Representative CLARK of Brunswick) (Cosponsored by Senator GAUVREAU of Androscoquin, Speaker MARTIN of Eagle Lake and Representative MCGOWAN of Canaan)

Ordered Printed.  
Sent up for Concurrence.

#### Judiciary

Bill "An Act to Clarify the Law Relating to Sexual Harassment" (EMERGENCY) (H.P. 1067) (L.D. 1489) (Presented by Representative CLARK of Brunswick) (Cosponsored by Representative FARNSWORTH of Hallowell, Senator ESTY of Cumberland and Representative RICHARDS of Hampden)

Ordered Printed.  
Sent up for Concurrence.

#### State and Local Government

Bill "An Act to Require the Permanent Recording of the Location of Stone Walls" (H.P. 1063) (L.D. 1485) (Presented by Representative AULT of Wayne) (Cosponsored by Representative AIKMAN of Poland, Representative BUTLAND of Cumberland and Representative NUTTING of Leeds)

Bill "An Act Concerning the Public Advocate" (H.P. 1070) (L.D. 1492) (Presented by Representative HEESCHEN of Wilton) (Cosponsored by Speaker MARTIN of Eagle Lake, Senator BOST of Penobscot and President PRAY of Penobscot)

Ordered Printed.  
Sent up for Concurrence.

#### Taxation

Bill "An Act to Correct an Inequity in the Sales Tax Law of the State" (H.P. 1056) (L.D. 1478) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Representative BAILEY of Farmington)

Ordered Printed.  
Sent up for Concurrence.

#### Transportation

Bill "An Act Regarding the Transportation of Students" (H.P. 1054) (L.D. 1476) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Senator CLARK of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Continue Recodification of the Railroad Laws" (H.P. 1073) (L.D. 1495) (Presented by Representative CARTER of Winslow) (Cosponsored by Representative DUFFY of Bangor, Representative JOSEPH of Waterville and Senator MATTHEWS of Kennebec)

Resolve, to Mandate a Comprehensive Planning Process for Rail Transportation (H.P. 1059) (L.D. 1481) (Presented by Representative CLARK of Brunswick) (Cosponsored by Representative RYDELL of Brunswick, Representative HOLT of Bath and Senator CLARK of Cumberland)

Ordered Printed.  
Sent up for Concurrence.

#### Utilities

Bill "An Act Increasing Indebtedness of Berwick Sewer District" (EMERGENCY) (H.P. 1064) (L.D. 1486) (Presented by Representative MURPHY of Berwick) (Cosponsored by Representative FARNUM of South Berwick and Senator CARPENTER of York) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

#### Reported Pursuant to Resolve

Representative BOUTILIER for the Commission to Study the Status of Nursing Professions in Maine, pursuant to Resolve 1987, chapter 106 ask leave to submit its findings and to report that the accompanying Resolve, to Request that the Board of Trustees of the University of Maine System Determine the Cost of Establishing a Training Program for Nurse Practitioners in Northern Maine and a Nursing Research Center (H.P. 1053) (L.D. 1464) be referred to the Joint Standing Committee on Education for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, and the Bill referred to the Committee on Education, ordered printed and sent up for concurrence.

#### REPORTS OF COMMITTEES

##### Unanimous Ought Not to Pass

Representative ANDERSON from the Committee on Energy and Natural Resources on Bill "An Act Providing for Changes in the Reports Required from Forest Landowners" (H.P. 906) (L.D. 1263) reporting "Ought Not to Pass"

Representative SIMPSON from the Committee on Energy and Natural Resources on Bill "An Act to Clarify the Definition of Solid Waste Disposal

Facility" (EMERGENCY) (H.P. 861) (L.D. 1200) reporting "Ought Not to Pass"

Representative DUFFY from the Committee on Taxation on Bill "An Act to Ensure Medicare Affordability" (H.P. 291) (L.D. 403) reporting "Ought Not to Pass"

Representative SEAVEY from the Committee on Taxation on Bill "An Act to Clarify the Taxation of Retirement Benefits" (H.P. 141) (L.D. 193) reporting "Ought Not to Pass"

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

**Unanimous Leave to Withdraw**

Representative DUFFY from the Committee on Taxation on Bill "An Act to Facilitate the Payment of Taxes by Persons Eligible under the Household Tax and Rent Refund Act" (H.P. 28) (L.D. 26) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Provide Guidelines for Conducting Operating-under-the-influence Roadblocks on Public Ways within the State" (H.P. 759) (L.D. 1063) reporting "Leave to Withdraw"

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

**Divided Report**

**Tabled and Assigned**

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass on Bill "An Act to Reduce the Expense of the Legislative Process by Shortening the Length of Legislative Sessions" (H.P. 317) (L.D. 433)

Signed:

Senators:

BERUBE of Androscoggin  
ESTY of Cumberland  
CARPENTER of York  
LARRIVEE of Gorham  
WENTWORTH of Wells  
HEESCHEN of Wilton  
JOSEPH of Waterville  
DAGGETT of Augusta  
ROTONDI of Athens

Representatives:

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

Signed:

Representatives:

BEGLEY of Waldoboro  
HANLEY of Paris  
McCORMICK of Rockport

Reports were read.

On motion of Representative Gwadlosky of Fairfield, tabled pending acceptance of either report and specially assigned for Friday, May 5, 1989.

(At Ease)

The House was called to order by the Speaker.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 218) (L.D. 534) Bill "An Act Regarding Alcohol Credit Sales" Committee on Legal Affairs reporting "Ought to Pass"

(S.P. 53) (L.D. 28) Bill "An Act Relating to the Licensing of Insurance Agents, Brokers and Adjusters" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-74)

(S.P. 68) (L.D. 56) Bill "An Act to Correct Liquor License Fees" (Emergency) Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-73)

(S.P. 88) (L.D. 90) Bill "An Act to Require the Department of Human Services to Investigate Zero Discharge Systems" (Emergency) Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-77)

(S.P. 136) (L.D. 221) Bill "An Act to Revise the Particulate Matter Air Quality Standard" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-76)

(S.P. 161) (L.D. 309) Bill "An Act to Make Changes to the Public Utilities Commission Laws" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-78)

(H.P. 433) (L.D. 598) Bill "An Act Regulating the Use of Fish and Game Roadblocks and Check Stations" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-137)

(H.P. 745) (L.D. 1028) Bill "An Act to Facilitate Treatment of Abused and Neglected Children" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-138)

(H.P. 119) (L.D. 156) Bill "An Act to Increase the Age Limit for Child Support" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-139)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, May 5, 1989, under the listing of Second Day.

**CONSENT CALENDAR**

**Second Day**

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

(H.P. 148) (L.D. 200) Bill "An Act to Provide Funds for the Montpelier Museum in Thomaston" (C. "A" H-129)

(H.P. 359) (L.D. 475) Bill "An Act to Assist the Environmental Health Unit of the Maine Bureau of Health" (C. "A" H-130)

(H.P. 244) (L.D. 356) Bill "An Act to Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Year Ending June 30, 1990" (C. "A" H-131)

(H.P. 388) (L.D. 519) Bill "An Act to Change the Number of Rooms Required for Hotel Liquor Licenses"

(H.P. 236) (L.D. 348) Bill "An Act to Provide for Constructive Notice of Injury for Workers' Compensation Purposes" (C. "A" H-133)

(S.P. 254) (L.D. 644) Bill "An Act to Provide Coverage for Chiropractic Services Under Hospital Service Plans, Medical Service Plans and Insurance Policies"

(S.P. 196) (L.D. 444) Bill "An Act to Prohibit Discrimination Against Persons with the Human Immunodeficiency Virus for Purposes of Insurance Coverage" (C. "A" S-66)

(S.P. 236) (L.D. 566) Bill "An Act Relating to Tax Exemptions" (EMERGENCY) (C. "A" S-67)

(S.P. 247) (L.D. 577) Bill "An Act Relating to Contracts Administered by the Department of Transportation" (C. "A" S-68)

(S.P. 276) (L.D. 722) Resolve, to Redesign the Structure of the Board of Environmental Protection (EMERGENCY) (C. "A" S-71)

(S.P. 304) (L.D. 802) Bill "An Act Regulating Activities Adjacent to Great Ponds" (C. "A" S-72)

(S.P. 331) (L.D. 868) Bill "An Act Concerning the Inspection of Dams" (EMERGENCY) (C. "A" S-70)

(H.P. 107) (L.D. 144) Bill "An Act Concerning The Siting of Solid Waste Transfer Stations" (C. "A" H-134)

(H.P. 88) (L.D. 123) Bill "An Act to Clarify Laws Pertaining to the Enforcement of Forestry Fire Control Laws" (C. "B" H-135)

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

**ENACTOR**

**Tabled and Assigned**

An Act to Provide for Division of Omitted Marital Property (H.P. 312) (L.D. 426) (H. "A" H-119)

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

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

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

Was the concept of the difference between marital property and property as tenants in common considered by the committee in connection with this bill?

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

The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I realize that this bill came into existence in a curious fashion. I think an important point to be made is that this bill translates property which has not been adjudicated by the court into property which is held as a tenancy in common. It may be that that is a good idea and that that was what was what the committee was recommending to the House.

I would like to pose another question through the Chair.

As an example, some stock which would have been marital property and which would be in the name of one of the parties of the divorce and by virtue of omission from the adjustment of property at the time of the divorce, did they recognize it would mean on the sale of that stock, that the party in whose name it was, would then represent a sale of an asset that was actually in the name of another person -- was that kind of argument considered by the committee?

The SPEAKER: The Representative from Belfast, Representative Marsano, has posed another question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: That particular bill was put in to Aging, Retirement and Veterans Committee and it dealt with spouses who, prior to 1983, if they went through the divorce process, many of them did not realize that retirement benefits were also joint property that they could work into the divorce agreement. So, back in 1983, the federal government passed a law saying that as of 1983, that could be

something that could be argued for and that the federal government would be the one who would be sending out the checks. The spouses, prior to 1983, sort of had no recourse. What this is saying, and the only reason that the title has changed is because the way it was written, it seemed unconstitutional. This was just a matter of clarification so if the divorce decree didn't say that it had considered the retirement benefits, then the spouse would be able to petition the courts and ask to have it reopened. It would be up to the court to grant or not to grant it.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose another question through the Chair.

Was it the intent then, as a result of the change of the title and the change of law in this bill, that those pensions would become subject to future determinations of the court?

The Speaker: The Representative from Belfast, Representative Marsano, has posed another question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: If I understood the question right, yes. If the retirement benefits were not spelled out in the divorce agreement, then yes the spouse could go back and petition the court that that particular segment of their joint property could again be reopened but for that segment only.

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

Representative ANTHONY: Mr. Speaker, I would like to pose a question through the Chair. I also have a concern about this bill. As I understand the amendment, it replaces the bill and thus extends beyond retirement benefits to any property that is admitted in a divorce decree. I need to ask that that be clarified. Also, when it uses the word "petition" -- does that mean that it is an action to petition or is it a reopening of the divorce decree? I guess these are questions I would ask to any member of the committee.

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

The Chair recognizes the Representative from Augusta, Representative Hickey.

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: My understanding of the legislation, it did reopen the decree.

On motion of Representative Anthony of South Portland, tabled pending passage to be enacted and specially assigned for Friday, May 5, 1989.

**PASSED TO BE ENACTED**

An Act to Require a Tax Map Reference on a Declaration of Value (H.P. 404) (L.D. 547)

An Act Relating to Ordinary Death Benefits Under the Maine State Retirement System (H.P. 625) (L.D. 848) (C. "A" H-103)

An Act Concerning Subpermitting of Moose Hunting Licenses (H.P. 677) (L.D. 928)

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  
UNFINISHED BUSINESS**

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

The Chair laid before the House the first item of Unfinished Business:

An Act Relating to Confidentiality of Investigative Records of Boards and Commissions (H.P. 232) (L.D. 316) (S. "A" S-51 to C. "A" H-51)  
TABLED - May 2, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and specially assigned for Friday, May 5, 1989.

**TABLED AND TODAY ASSIGNED**

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

HOUSE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (H-127) - Minority (1) "Ought to Pass" as amended by Committee Amendment "B" (H-128) - Committee on Judiciary on Bill "An Act to Require Parental Consent to a Minor's Abortion" (H.P. 457) (L.D. 622)

TABLED - May 3, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Either Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and later today assigned.

At this point, the members of the House observed a moment of silence in memory of Representative Thomas A. Cahill of Mattawamkeag.

(At Ease to the Gong)

The House was called to order by the Speaker.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Enhance the Economic Corridor Action Grant Program (H.P. 758) (L.D. 1062) (C. "A" H-132)

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. 117 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.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (12) "Ought to Pass" as amended by Committee Amendment "A" (H-127) - Minority (1) "Ought to Pass" as amended by Committee Amendment "B" (H-128) - Committee on Judiciary on Bill "An Act to Require Parental Consent to a Minor's Abortion" (H.P. 457) (L.D. 622) which was tabled earlier in the day and later today assigned pending acceptance of either report.

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

Representative PARADIS: Mr. Speaker, I move that the House accept the Minority "Ought to Pass" Report.

Mr. Speaker, Men and Women of the House: I think in the last week, we have all heard and listened, been called, received letters and other forms of communication about this matter, perhaps more than on any other bill we have thus far considered this session.

I want to allay any confusion that you think might exist on the fact that this is a 12 to 1 report. I thought the motion before the Committee on Judiciary was to refer the bill to the Committee on Human Resources and I thought that is what the 12 to 1 report meant (not my real power on the Judiciary Committee as the House Chair) and having said that, permit me to say one other thing in a more serious vein.

I don't believe there is anyone in this body or anyone that I have ever served with in this body (in six terms) that I could ever apply the terms that we use and see used in the media constantly -- terms like pro-life, pro-choice, or anti-life, anti-abortion, these types of terms. I believe in my heart that each and every one of you here really and sincerely believe in life. I don't think you would run for the legislature, submit yourself to the voters and they choose you to serve their interests in Augusta, if you didn't believe in life. I respect you all deeply, I know that this is a difficult issue for you to have to look at. No issue regarding abortion or life or rights of parents over minors is an easy issue to face. We want to do what is right, we also want to be accountable to our constituencies back home. I would like to think, and I believe sincerely, that you are all very much pro-life because you are here today in this chamber on this beautiful Maine morning.

The bill that we have before us in Committee Report B is a modest attempt to reassert the rights of parents over their minor children. Years ago, the Maine Legislature enacted a portion of Title 19 and it says "Father and mother are the joint natural guardians of their minor children and are jointly entitled to the care, custody, control, services and earnings of such children." That has been the law of this state for many, many years. It has been eroded over the last several decades by people who do not sit in this chamber, but nonetheless, people that we must obey. The law of the land is simply not something that we can pick and choose. We not only must respect what the Supreme Court does, we must obey it. In fact, you and I have taken an oath to uphold the laws in the Constitution of the United State of America.

Let me read you a quote, "Perhaps the most damaging thing going on in this country is the growing pressure on and destruction of the American family." Now, the person who said that (so you may not wonder who might have said such a terribly honest statement as that) was not the President of the United States, Mr. Bush, it was not the former President of the United States, Mr. Reagan, it wasn't someone from the eagle forum like Phyllis Schafley or the National Right to Life organization, it was the former Vice President of the United States, Walter Mondale. I think we can agree, both as Democrats and Republicans, liberals and conservatives, that there has been erosion of the rights of parents to raise their children the way they want to raise them.

The courts have always, when asked to decide about the common law rights of parents over children, minor children, have decided in favor of parents. The one very obvious and very fundamental reason, long before there was a Constitution of the United

States, long before there was a United States of America, there was the most basic, common government in the history of man and that was the family. The family must be respected. As a nucleus of government, the most basic form of society exists within the family unit and when we encourage or permit the disintegration of that nucleus to occur, we destroy the most powerful thing that we have to ensure the continuity of the human family as we know it.

There is nothing that we can do as a state, let alone as a United States of America, that can take the place of the family. We do not have enough money in Augusta or Washington that can cure the ills that are coming about because of the destruction of the family. That isn't the blame of Republicans or Democrats, the Congress or the state legislature, it is the responsibility of every one to see that the outgoing tide is stopped and the flow returns to parents in this country. This bill is only a modest attempt to that. Why such a modest attempt? Because the window of opportunity that was opened by the Supreme Court in the Missouri versus Ashcroft decision in 1983 only permitted us to go this far. To go any further, to state that parents have complete control over their minor children regarding abortions, would be unconstitutional, according to our Supreme Court. We must live within the limits of the court decision.

Do we have a problem in Maine? Yes we have a problem in Maine. If no abortions were being performed, or parents were aware of every abortion performed on a minor child, a young woman, we would not need this bill.

The last year that we had reliable statistics from the Department of Human Services was in 1987. There were 991 pregnancies reported of minor young women, those who are 17 and under. Forty percent, 394 of those pregnancies, were terminated by abortion. We do not know if there was parental consent or parental involvement in any one of those nearly 400 cases. We can speculate, we can say half of those had parental involvement, we cannot speculate with any degree of assurance, we do not know the quality of that involvement.

The bill that we have, parental consent of minors, would require that a young woman, with two exceptions, and I will explain them, receive the consent of her parents to procure the abortion. The exceptions are the judicial bypass, which was required in the Ashcroft decision and the exception of an emancipated minor child, one who has already gone to the court and received full majority rights as an adult even though that young girl is 15, 16 or 17. That has already happened, therefore, she need not petition anyone at all to act as an adult. The judicial bypass is there because it is required. There are circumstances, there are problems that the court said we cannot have full parental consent because they could deny a minor an abortion if the young girl decides that she differs with her parents on that issue, then she must be able to go some place else and the court said, either be placed according to the law or permitted to go.

It isn't a very long bill. I encourage you to read the Statement of Fact of both the bill and the amendment so you can see that, in all two and a half pages of it, it spells out what we can do in 1989 while even other decisions are being debated and have been heard before the Supreme Court of the United States.

Why have parental consent for minors? Let me read to you just briefly several statements. I will attempt the best I can to tell you what decisions the

court has over the years (and when I say court, I mean the United States Supreme Court) regarding certain rights of minors. The rights of parents to the custody care and religious and moral education of the children is firmly established in the traditions and laws of the nation. "It is cardinal with us that the custody and care of the child reside first in the parents whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." That was the Supreme Court of the United States in a decision Ginsberg versus New York in 1968. The court went on "Parental interest can be of two types, parents have a fundamental right to raise their children as they see fit and two, parents have an interest in preserving their daughters health and well-being." The state's interest in protecting minors against their own immaturity has currently recognized the reduced capacity of minors to make mature and informed decisions and has, therefore, acted to protect minors from their immaturity. In so doing, each state has established statutorily an age of majority and substantially limited the rights of minors for their own protection.

Mind you, parents have control, as I stated in Title 19, over all types of decisions that the minor is asked to make outside of the family unit to some degree or other except when that girl is faced with a pregnancy. There the courts have ruled and have made amendments to that ruling since 1973 that parents have a right to involve themselves but not fully to the point of veto over that decision because they are minors. When we discuss minors, we are discussing the lack of a minor to be able to give that fully mature yes or no to those types of decisions. While minors are generally entitled to the same constitutional guarantees as adults, "The state is entitled to adjust its legal system to account for children's vulnerability and their needs for concern, sympathy, and parental attention." That came from the Supreme Court in the decision of Baird versus Belotti in 1971. That was when Massachusetts passed a parental consent law.

Parents possess what a child lacks in maturity, experience and capacity for judgment required for making life's difficult decisions. The parents role, therefore, is often critical in preventing minors from being victimized by their own immaturity. I am not a parent. At times when we are asked to debate certain issues, I perhaps wish I were a parent, to be able to share with you what a parent feels and I don't think that I can even begin to discuss and to share with you those thoughts and feelings without actually being one.

I could go on and cite other decisions of the courts on this issue, we have many of them. What it comes down to, I suppose, from our perspective fundamentally is, if we are allowed to put parents back into that decision process, are we going to do it? After a young woman has had an abortion, those 390 or so young women, were we ever (here) in the position of what parents have to live with when the child goes back home or perhaps she feels that she cannot go back home now and tell them of that decision that was made without any input from them? How many of those 400 were not able to have parental involvement when that intervention would have been so helpful? How much money is it going to take from us in the form of counseling and health centers to provide the place that Mom and Dad have in that young woman's life? It wasn't the state that ordered the child born, it wasn't the state that said we can do a better job, give it to us. When the Amish children in Pennsylvania petitioned the Supreme Court, when



the Amish parents in Pennsylvania petitioned the Supreme Court to be allowed to raise their children without governmental interference, the court granted them that right. Parents have a right to instill the religious values and morals that they possess because they are the parents of those children and there ought not to be anything that we do in this chamber, any other chamber or other governmental body in this free country of the United States interfere with that because the problems that we have now are miniscule compared to the problems that we are going to have in a decade from now if this trend continues. If we think we can have teachers replace parents, if we think we can have social counselors replace parents, if we think we can have governmental officials replace parents, then we are really, really thinking incorrectly if history is any guide to us. When we remove that most basic link that children need in their growing process, the parent, we remove from them their respect for all government. A child that grows up not respecting or having any interplay with their parents will not grow up to be the type of citizen that we think we need in this state. It will not be the type of citizen that will respect authority, it has not been shown real authority. It will not be the type of citizen that we want to lead Maine into the next century.

I would hope that when you do vote that you will agree to the legitimacy of this bill, that you will agree to the need for this bill, that you will agree that the tide has turned far enough and that it must start coming back in if we are to keep this good ship, the State of Maine, afloat.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not accept the Minority Report so that you could go on to accept the Majority Report, which 12 of the 13 members of the Judiciary Committee signed. I agree very much with the former speaker that the family really is the most important element in our lives and it should be. We should do everything possible we can to protect that family. I strongly support parental consent approval communication whenever possible. If it were a perfect world, I would support parental consent as well as guidance and counseling, all of those and only by the parents before an abortion could take place but it is not a perfect world. There are many minor girls who have no parents or who have abusive parents to whom they cannot consult.

In the original bill, which Representative Paradis has just explained so well, if you cannot go to your parents, you have to go to a judge if you want an abortion.

In the Report that 12 committee members signed, the minor may go to her parents or to a judge as in the original bill but we have added three other categories to help her through this momentous decision. She may go to an adult family member thinking that an older brother or sister could be most helpful if she couldn't go to her parents. She may go to a physician or to a counselor but that person must give her some unbiased information and that is what the original bill does not do.

The information is mandatory and both the minor and the person to whom she has gone must sign a statement saying that the information has been given. I think that information is so very, very important to a very young girl who is making this decision alone. I would like to see the minor go to her parents but sometimes, in some families, she

cannot. This would provide her with an older person to talk to and I think she very much needs that. An older person would know what is going to take place and to be available for help if it were needed.

There are some things that must be discussed with the minor. One, she must be coerced into either having an abortion or carrying her pregnancy to term. She must have the choice of withdrawing her decision to have an abortion anytime before the abortion is performed. Alternative choices for the minor must be explored including carrying the pregnancy to term, keeping the child herself, placing it with a relative or placing the child for adoption. Prenatal and postnatal care must be explained. Having an abortion must be cited as an option. Public and private agencies that are available to assist her with birth control must be explained. Involving her parents in the decision, talking to the minor about consulting her parents and involving them in this important decision. The last one is providing adequate opportunity for the minor to have all of her questions answered. This information can be given by a physician or a counselor and the counselor would include a psychiatrist, a psychologist, a licensed social worker, an ordained member of the clergy, a physician's assistant, a certified guidance counselor, a registered nurse or a practical nurse. All of these people would be available in the city, that wouldn't be any problem. At least one of these should be available in the smaller towns so that minor would have someone to go to.

Four years ago, we had this same identical bill. This bill that you have today, L.D. 622, we had that four years ago and it came before the Judiciary Committee and there were three reports out of the Judiciary Committee. Five of us signed the original bill, such as we have today. I was one of the signers of the original bill. Seven of the committee members signed an amended version or a modified bill that dealt only with 15 year olds or younger and set up a complex system of court masters. One member signed another report. The House accepted the original bill signed by the five of us. The other body accepted the report that seven members had signed. When the bill came back to the House, the five of us were in a quandary. We had debated hard against the modified report. It was too liberal for us since it involved only 15 year olds and it was now really too late to make any changes. When we had told the members of this body what a poor substitute that that bill was, it was really difficult to go back and say, well, it really wasn't as bad as we thought. So, we adhered in this body to our original position, the other body adhered to its original position and the bill died between Houses. We had nothing, ladies and gentlemen, nothing.

The minor could walk into a doctors office or an abortion clinic and have an abortion without having told anyone, not even her best friend, her boyfriend, her parents, her sister, not anyone. I don't think that that is right and I don't think that is safe, in case the minor runs into problems.

Since that vote, I have asked myself many times since, couldn't we have done better or shouldn't we have done better? Today, we have an opportunity to ensure that a young, pregnant minor will have some counseling and some information before she makes this tremendous decision. Hopefully, it will be from her parents but if not, then from a trained, qualified, professional adult. Whenever any of us have physical, emotional or mental problems, we seek a trained, qualified person to help us deal with those problems. All of these people who would be allowed

to give that information have to live up to the standards of their profession as required by licensing, just as we all have to live up to our oath of office. I am confident that they will do that.

For these reasons, I hope that you will vote against the Minority Report so that we can go on to accept the Majority Report.

Mr. Speaker, I request a roll call.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Representative MacBride has indicated that they could have done better in the last session. I suspect she is relying on hindsight. We have an opportunity today to do better if we so wish. Let me tell you briefly why.

Report A, as has been eloquently spoken to by Representative Paradis, Chairman of the Judiciary Committee, has met the constitutional test. It is based on the Missouri law and it is practically identical except for a minor change as to which court would hear the judicial bypass section. Report B has not met any constitutional test. I am not a lawyer but I have been around these halls long enough to know that something will not meet with judicial approval and Report B, if it finds its way into the courts, will be declared unconstitutional. There are several reasons why I believe that is the case.

I am not here to debate Report B, I am here to speak on Report A, the opportunity that is before us, a tested measure. You all know that I am the sponsor of this bill and let me tell you why I agreed to sponsor it.

There is no question that this is a very emotional issue for all of us. It is easy to see why. Last year there were a million and a half abortions in this country. Since the Roe versus Wade ruling by the Supreme Court, there has been 22 million abortions in this country. This bill is not an abortion bill. This bill deals with parental consent. I think you will agree with me that our country's culture, our way of life, has endured solidly over the past several hundred years. Our democratic form of government is a show piece in the world today and is the single, longest endured democratic system of self-government in the world today. The cornerstone of its success has been and still is based on the integrity and sanctity of the family. There is no question in my mind that family unity has played the greatest role in making our country what it is.

I don't have to remind you how some governments choose to control their people by undermining the integrity of a family. One only has to look to Russia, Nazism, you can go back to Genghis Khan if you wish to.

Since World War II, we have been tearing away at the very fabric that has kept the family together. We have done this perhaps unwillingly, not thinking what the long-term effects might turn out to be. These changes have been promoted by both our state legislators and the judicial system. I am sure, in most cases, that it was done with good intentions but many of these changes are coming back to haunt us.

Let's take a look at some statistics. Ten years ago, the population of the State of Maine was a little under a million people with not much growth. Today, it is about 1.2 million and growing at the rate of 2 percent a year. Ten years ago, there were 361 adults on probation and parole; today there is over 8,000. Last year, we had 4,000 youngsters who participated in our educational system who were not adequately prepared for the future. Three thousand of these youngsters were dropouts and the rest just

went through the system without being adequately prepared to earn their livelihood. Nearly one-third of all abortions performed in Maine were performed on teenagers. According to two university of Wisconsin researchers, Theresa Castro Martin and Larry L. Bumpus -- two-thirds of all the first marriages in this country will end up in divorce or separation. Now the statistics that I have just alluded to are the symptoms of what has gone wrong in our society. They do not deal with the causes. Apparently all we attempt to do as legislators, both on the state and federal level, is deal with the symptoms, we never try to deal with the causes. Perhaps that is because we are a body that operates on a reactive basis rather than an active basis. Maybe that is the way it should be.

Last month, while I was on the Legislative Economic Institute Tour, I had the opportunity to visit the Job Corps Center in Bangor. The center does an excellent job in what they are charged to do. However, the numbers tell me that there is no way that this center will ever be capable of serving the 4,000 youngsters per year that need the facilities offered by this institution. While there, I made it a point to ask for statistics on the background of these youngsters in an attempt to try to find out where the system went wrong. Was it due to alcoholism or drug abuse, broken families, child abuse -- no such information is available. The only criteria for admittance is income related. I don't know about you, ladies and gentlemen, but statistics and our failure to try to deal with them, really scares me. If we don't make a sincere effort to try to deal with the symptoms, what will these statistics be like 10 or 20 years from now? I don't wish to come off sounding like a voice of doom but we must take stock, find the causes, and make the necessary changes or adjustments.

The U.S. Supreme Court has not been helpful in trying to deal with the symptoms. The 1973 Roe versus Wade ruling is one that actually imposes a double standard on the family. It represents a tremendous tear in the family fabric. This ruling is being questioned more and more each day. The rights of the parents, through the care, custody and religious and moral education of their children is firmly established in our society in the laws of this nation. There are numerous examples to substantiate that. Representative Paradis just gave you one out of Title 19. I can give you some more examples. A minor, for example, will not be treated by a physician unless there is parental consent for having its ears pierced or for that matter, if a minor is seriously injured and dying, a physician will not treat that youngster unless there is parental consent. A youngster is not permitted in the military unless there is parental consent. A youngster is not permitted the right to vote and I could go on and on.

I am not a psychiatrist nor do I claim to be an expert in this field but common sense tells me that the most valuable thing that we can provide for our children is a mother's full-time care, especially so during the formative years of a child's life. Ample research and study have been done to substantiate this.

Permit me to cite from a portion of a book that was called to my attention recently during an Appropriation's Committee hearing dealing with children issues. The title of the book is "Within our Reach, Breaking the Cycle of Disadvantage" by Elizabeth B. Shaw and Daniel Shaw. Let me read several poignant paragraphs entitled "Strengthening Families from Outside" -- Father James Harvey is a

New York city priest who has worked with hundreds of young men in trouble. They come to him from their world of robbery, burglary, stabbings and shootings and he has helped many to change directions. But, he is angry about one thing that he cannot change, the past. These youngsters come in, they don't have food, they don't have clothes, many of them don't have a place to sleep, he told a television interviewer. People say, "What is the one biggest thing they don't have?" "I believe it is memory." These young people have no good memories of the past. The streetwise priest without a parish has reached the same conclusions as has a world renown child psychiatrist, Yale University's Albert J. Solnick. "To become a productive and responsible adult, a youngster needs a useful and self-respecting past, one that gives him or her a sound sense of self-worth and of a future worth anticipating. Children whose memories are storehouses of deprivation, neglect or violence are robbed of the ability to cope with the present or to envision a future bright enough to justify postponing immediate rewards. Children whose families were never able to convey to them a sense of being valued and a feeling of coherence are in a poor position to cope with the world of school and work. They are likely to be in deep trouble by the time they begin adolescence". Another section goes on to say, "It is now possible to identify a few elements of early family experience that puts children in serious jeopardy of significant damage in adolescence. A young child who fails to form strong and loving bonds with one or two caring adults and fails to experience a reasonable amount of coherence in his surroundings during his first few years of life is probably headed for trouble. A loving and predictable relationship between infant and mother or between infant and one or two caring, committed adults leading over time to a developing of a child's sense of trust is probably the condition most fundamental for normal, human development. This relationship has for some years been referred to in the child development and psychiatric literature as attachment and is considered by many scientists actually to be a basic, biological survival mechanism in human and other species whose young are born immature and dependent. In the human infant, a sense of trust is most likely to develop when the baby is cared for by someone reasonably consistent and brings comfort and pleasure and resolves stress and uncertainty especially when the baby is hungry, anxious, fearful or tired. The relationship becomes secure in time if the adult is sensitive and responsive to the baby and derives pleasure from the interaction."

In my humble opinion, ladies and gentlemen, it would appear to me that many of the social problems of today go back to the early formative years of a child's life and centers on the family.

I recently read an article on "Sex and The Teenager" and the article goes on to say that many unmarried teenagers in the United States freely engage in sex and that adolescent motherhood is linked to a number of social ills. Could it be that these teenagers are just seeking the strong and loving bonds that they failed to establish during their formative years? I wonder.

Passage of this bill will not cure or deal with all the problems that I have pointed out. However, passage of this bill will go a long way in establishing or reestablishing a vital communication link between parents and their children. Passage of this bill will not change the Wade versus Roe ruling by the Supreme Court in 1973. It will, to some degree, mitigate its effect. It will not remove the

double standard set in motion by that ruling but it will be a vital step forward in our attempt to mend or restore some of the very fabric that we have thrown away and, hopefully, will restore family unity, the cornerstone of our way of life.

I sincerely hope that you will agree with me and support the Minority Report.

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

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would like first to commend the hard work and the efforts of the Judiciary Committee. It is an issue that is very complex. It is steeped in personal convictions and personal beliefs and, if you are like me, it took a pretty exacting toll on making a decision on this issue.

I eat breakfast with people from both sides to get the information that they had, to weigh it all out, and I listened to a lot of my constituents as they called, both for and against the parental consent issue. I really don't take exception with what the fine gentleman from Winslow was saying nor the fine gentleman from Augusta that chairs the committee. It is an issue that transcends all partisan lines, it transcends all the various religious sects but one thing I would like to say, it also is not just a woman's issue, it is an issue that each and every one of us must deal with.

I am a parent and I speak to you first and foremost that way today. I am also a former high school teacher and I served on the Governor's Task Force on Adolescent Pregnancy and Teen Parenting. That background, I think, has given me a little bit different perspective and I think what we are looking for today is a solution to a very serious problem, not only in this state, but throughout the country.

This proposal before you does not solve the problem. It doesn't get to the heart of the issue and the heart of that issue is, in fact, family values, family communications. Therefore, I have to urge you to reject the proposal before you.

When the teen becomes pregnant, she is faced with a pretty serious situation, a situation which requires support and that support needs to be adult support, mature support and involvement by adults. In most cases in this state and around the country, that support comes from parents. In too few cases, and actually too many cases, that support can't come from a parent, it shouldn't come from a parent, it has to come from another source. I don't care where that source comes from as long as they get some adult support and some adult involvement in that individual decision by that minor who has enough to worry about now.

The concept of parental consent as defined before you simply does not make that involvement happen. If it does happen, it happens too late, it happens at the wrong time and sometimes, it is not going to happen at all. It is simply impossible.

We heard from the fine Representative from Augusta about "no one can substitute for a parent" and I submit to you that neither can the State of Maine. The State of Maine, in some cases, is forced into the role of guardian but it can never become a parent, it can never play that role, and I don't believe it is a role that the State of Maine should be getting into.

One of the newspaper editorials in the Brunswick Time Record I think brought this issue to a head. It hit to the heart and the core of the issue. I would like to quote briefly from that editorial. "Society cannot prevent teenage sexuality. However, it can do a great deal to prevent teen pregnancy; thereby

negating the need for teenage abortions." I think that is the approach, that is where the energy should be spent dealing with this issue. If we could do that, we might not be debating the issue before us today.

I think if you look at the definition of parental consent and if you are looking for the family values, then I think you have to look at parental consent in a whole new meaning with a whole new way of looking at it. Parental consent is after the fact in this case, it is much too late. I submit to you the following definitions of parental consent. Parental consent should be parental communications that starts early and stays late. That becomes a family. Parental consent should be patience and understanding and teaching slowly and happily because that brings about the bond of the family and the values. Parental consent should be a two-way communication to help both the parent and the child develop some self-pride, some self-esteem and some self-worth. That is family values, that is the family. Parental consent truly should be adults helping children to become teens, helping those teens become young adults committed to a quality of life, committed to the dignity of life, committed to seeking new challenges and new horizons, committed to a chance of love and a chance to be loved. That is family, that is what family is about, that is what this country is about. Parental consent is looking at my 12 year old daughter right in the eyes and listening to what she has to say and looking into my heart to make sure that those lines of communication are open and will stay open. If we can do that, if we can teach children and teens and young adults to be parents, the issue before us today becomes a mute issue. It is not one of parental consent, it becomes one of clearly parental communication, developing a bond, developing family values, that this society must get back to. The measure before you simply will not do that.

One exception I will take with the fine Representative from Winslow, though I have immeasurable respect for, is that he said children need the care of a full-time mother. I would also say that they need the care of a full-time father. I am a parent, it is not easy, truly it is not easy but I can assure you that it is rewarding. I have no regrets about being a parent and I think all of us here who are will share that.

I would like to leave you with one thought that is not my own, it comes from a song by Whitney Houston that my daughter gave to me last night, her handwriting, her index cards. It goes something like this, "I believe that children are the future, teach them well and let them lead the way. Show them all the beauty they possess inside, give them a sense of pride to make it easier. Let the children's laughter remind you and us how we used to be. Find your strength in love."

I urge you to vote against this measure.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Men and Women of the House: This parental consent bill is a parental prerogative bill. We must not strip parents of their rights and duties to be parents because some parents are abusive. Those of us who are parents have experienced walking the floor at three in the morning with a baby who has colic. We paid for the 10-speed bike, the Adidas sneakers, and husbands and wives have passed each other on the road bringing daughters to Girl Scouts and sons home from Little League practice. No one offered us counseling help or any help for any of these tasks.

Whom do we represent -- which of our constituents want us to usurp the rights of parents and give these prerogatives to outside counselors? There are laws dealing with abusive parents, enforce them, but don't rob us all of our rights and duties as parents and, thereby, inflict another wound on family unity. I stand to support the Minority Report.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I stand in support of the Majority Report and I will be brief. I want you to place yourself into the situation we are dealing with here. A fifteen year old, sexually active girl discovers she is pregnant, what does she feel? She feels miserable, first of all, obviously, and very scared and very alone. She is faced with three terrible choices, abortion, bearing the child and releasing it for adoption or bearing the child and raising it herself. All of these three choices are bad choices from her point of view. They all involve substantial disruption to her life, substantial emotional pain and, in the case of raising it herself, substantial destruction of her whole life. There are no good options and this girl is trying to find what is the least bad of the options she is facing. Where does she turn to for help in deciding what to do? Typically, she turns to her friend and then from there, to an adult, a guidance counselor, hopefully a clergy person, a health professional, oftentimes, her best friend's parents, or hopefully, her own family. Most likely, it is a combination of several of these.

On the Judiciary Committee, one of the things that I learned during the public hearing on L.D. 622 is that most girls turn to their families (among others) before deciding on an abortion. Also for that matter, before deciding to place a child up for adoption or to raise the child herself. How many is most? Well, the HART Coalition suggests based on a national study that it is over 70 percent who turn to their parents. The Maine Right-to-Life Committee says about half. In fact, that was the figure quoted earlier by the Chair of my committee. The truth is probably somewhere between 50 and 70 percent who turn to their parents. At the other end of the spectrum, there are some girls who get pregnant who simply can't or shouldn't involve their parents in helping to decide what option to pursue. These are girls from dysfunctional or nonexistent families. Both the Maine Right-to-Life Committee and the HART Coalition acknowledge this fact. As best as I can determine from the testimony and the statistics and everything that was presented, this is probably somewhere around 20 percent of those girls who get an abortion. Now 20 percent may seem high to you but keep in mind that kids from dysfunctional families are far more likely to get pregnant in the first place at an early age. I am sad to say that there are an awfully lot of dysfunctional families out there. Child abuse reporting statistics from our state reflect that fact. Last year, 4,781 families were referred to the Department of Human Services on account of child abuse and neglect involving 11,118 children. An abused or throwaway child or a child who has no caring parent simply cannot involve her own family. Somewhere between 50 and 70 percent and the bottom 20 percent, there is a group of girls who probably could and should consult with one of those parents before deciding which option to select or, more specifically in this case, before deciding whether or not to undergo an abortion.

The true purpose of this bill, it appears to me, is to encourage these girls, somewhere around 15 or 20 percent of those who choose abortions, to encourage that group of girls to turn to their families before deciding on an abortion, the girls who can and should turn to them.

Quoting from the statistics provided by the Bureau of Vital Statistics, there were just 400 Maine girls between the ages of 11 and 17 who received abortions in Maine last year. In other words, there were approximately 60 to 80 girls last year and presumably each year who could be encouraged to turn to their parents for help and should be encouraged to do so. We must try to do that without causing other unfortunate consequences that affect, not only those girls but the girls in what I call the bottom 20 percent, the ones who cannot turn to their families. What kind of consequences are we talking about? We are talking about delay and keep in mind that kids do delay things, especially tough decisions. The statistics seem to bear that out. Both statistics and common sense suggest that a parental consent or court consent bills, such as the Minority Report presents, will in fact cause delay before a girl seeks an abortion. The delay is unhealthy, no question about that. That is very clear from medical reports that delay causes further health consequences.

A second possible unfortunate consequence would be forcing a girl to go out of state where she knows no one at all in order to get an abortion. Statistics again show that that happens under the parental or court consent bill which is the Minority Report. That is an unfortunate side effect.

Third, and most important, is the side effect of skewing the decision so that it might be made, not based on a fair assessment of what that girl finds would be the wisest choice for her, but rather based on what is the easiest choice on the short run, the one that requires the least amount of effort on her part.

The 20 percent who cannot consult parents, the bottom 20 percent, are the very same kids who will be the most harmed by the Minority Report, the parent or court consent bill. They cannot go to their parents, we have already noted that and they are kids who are not able to cope in life very well because of their poor upbringing. They have usually had a series of bad experiences with authority figures as well, their experiences where courts have always been negative. They simply do not have the internal resources to cope with having to go to court for consent. So, in trying to coax the 15 or 20 percent in the middle to turn to their parents, we have put a substantial burden on those most vulnerable girls, the ones least able to cope with this horror of finding themselves pregnant. That to me is what was wrong with the Minority Report. And, have we really helped get the 15 or 20 percent in the middle to turn to their parents by this original bill as modified by Committee Amendment "B?" I doubt it. All we have really said is, turn to your parents or go to court. That is all that is said in that proposal. It places a girl between a rock and a hard place. Faced with that choice, most often the judicial bypass becomes the way out. No one is ever required, under the Minority Report, to encourage that girl to talk to her parents. Neither the judge nor anyone else.

In contrast, Committee Amendment "A", the Majority Report version requires a girl to receive counseling prior to an abortion. And, it requires that the counseling include encouraging her to seek parental involvement in that decision. That, after all, is what we are trying to accomplish throughout all of this discussion on the legislation.

I would call your attention to page 4, lines 42 to 46 of Committee Amendment "A", which provides that the counseling include, "discuss the possibility of involving the minors parents, guardian or other adult family members in the minors decision making concerning the pregnancy and explore whether the minor believes that involvement would be in the minors best interest." So, that is in the Majority Report and it is not in the original bill or as modified in the Minority Report. In my view therefore, the Majority Report is more likely to succeed in achieving the underlying purpose of the bill.

I might add that I believe the Majority Report is constitutional. That point has been raised this morning. Based on my analysis of the relevant court decisions and my reading of Committee Amendment "A", this is a constitutional bill. I would not be standing here in support of it if I did not honestly believe that it was a constitutional proposal that is before you here today.

Let me back up for just a bit. I stated that one of the ill effects of the Minority Report is to skew the decision so that it is not made based on a fair assessment of what the girl believes to be best but rather in what feels to her like the easiest way out in the immediate moment. Namely, that is not to go to a parent or to go to court but to bear the child or go out of state or postpone making the tough decision.

There are many in this body who find that to be the positive benefit of this bill, not a negative side effect. It is clear that a parental consent or judicial consent law, such as the original bill and such as Committee Amendment "B", does in fact reduce the number of abortions that take place for minor girls. It is not just a coincidence, I pose to you, that the very groups who are pushing this bill are the same ones who pray for the overturning of Roe versus Wade. If you want to decrease the percentage of girls who get abortions, if that is your goal, then I suppose you should vote for the Minority Report. But, if you really want to help that scared, overwhelmed and very alone girl who is trying to figure out how she is going to select between the three miserable choices she is faced with, and if you really want to encourage that middle group, that 15 to 20 percent, that 60 or 80 girls per year, who could involve their parents to do so in making this momentous decision, then I submit to you that the Majority Report deserves your support. Thank you.

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At this point, Representative Gwadosky of Fairfield was appointed to act as Speaker pro tem.

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The House was called to order by the Speaker pro tem.

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

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: There are three substantial state interests in requiring parental consent before an abortion on a minor. First is the state's interest in protecting minors against their own immaturity. Although minors are generally entitled to the same constitutional rights as adults, every state in the country recognizes that certain laws are necessary to protect minors from their own immaturity. We have laws against minors driving cars, buying cigarettes, alcohol, joining the

military and voting until they reach a certain age of maturity. These laws are not put in place to harm minors, they are there to protect them.

This legislature has before it this very session proposals to increase the age for minors to buy cigarettes and drive cars. Yet, a minor of any age can submit to irreversible procedures of abortion without parental consent or even knowledge.

The second state interest is the importance of a parental role. Our laws have constitutionally recognized that the rights of parents to rear their children is basic to the structure of our society. Parents have a fundamental right to raise their children as they see fit and they have an interest in preserving their children's health and well being. Every other medical operation on a minor requires consultation with and consent of the parent of that child. Abortion can be severe and even a fatal medical complication along with depression, guilt and mental anguish following the procedure. These complications do not exist with a tonsillectomy but the current situation requires parental consent for tonsillectomy but not abortion.

The third state interest is in fostering the family structure. The family is the most appropriate and effective contact in which to resolve a crisis. No one can possibly know the needs, past history, maturity or immaturity of a minor like her family for they have been with her all of her life. Exposing a pregnancy to her family may have an initial reaction or hurt, embarrassment and anger but such an initial reaction soon gives way to concern for her well being and a desire to protect and help her through her dilemma.

A minors family is only the best possible unit to work through a crisis because they are the ones who care the most and know her the best. No abortionist or abortion counsel could possibly know or care for these minors like their families do. It is therefore in the best interests of all concerned that these families be made aware of and allowed to be involved in their pregnancy decisions.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: My culture has always held a value that, if unprotected sexual intercourse results in the creation of a life, someone in the community would take care of the child, the mother, the father, perhaps Memere, Peperere's relatives. Abortion was not part of our vocabulary. The choice to reproduce was to be made before the process was begun.

Speaking with counselors serving the valley, it sounds like that value, families taking responsibility, is still strong. In 20 years, one counselor has found little evidence of families turning their backs on pregnant teenagers. Maybe it is because of our societal pressure up there.

On an on-going debate facing the Education Committee presently is a bill allowing teenagers alternatives if they object to dissecting small animals in biology class. Some opponents say that 14 or 15 year olds are too immature for conscientiously objecting to dissections, therefore it should be forced on them. 85 percent of my constituents in my district support the Minority Report. Let's trust Mom or Dad on this one, what are the alternatives?

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockport, Representative McCormick.

Representative MCCORMICK: Mr. Speaker, Men and Women of the House: I support the Minority bill here, L.D. 622, because I am a parent, a parent of

seven children, four of whom are daughters. I also have eight granddaughters. I shudder to think of any one of them having to go to a stranger to get advice on whether to have an abortion.

I strongly support the family, we have a very strong family and I think it is because of the support that we have given to our children in many crises.

In addition to that, I would like to point out that over 60 percent of the constituents in my district also support this bill, L.D. 622. After all, aren't we here to represent the people in our districts? It is my understanding that throughout the state the majority support parental consent as set forth in L.D. 622. I feel that, at least in my district, to vote otherwise is not being honest with my constituents.

I would like to make a point here that I am not sure has been brought out. If we don't support the Minority Report, then we will be asked to support the Majority Report. There has been quite a lot said about the Majority Report but one thing that has not been pointed out is this, there is a major flaw in the Majority Report. The same people who would perform the abortion are also the same people who could and very likely would be advising this teenager. This is like having the bank robber guarding the bank for you.

Abortion is a major industry in our country. When you have the same people advising a teenager and who may very well be doing the abortion, it is pretty hard for me to understand how they can completely remove the profit motive from their counseling. For that reason alone, I would ask you to please support the Minority Report, L.D. 622.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I know this will be a very difficult decision for each and every one of you today to make. But, to me, parental consent is a very important thing. We are put on earth to bear children, to raise children, make decisions which will affect their lives. In the final analysis, we have to make the decision, no one comes along and helps us go through those decisions. In making this decision today, I say to you, you can get all the counselors you want to help with your children but when the final maker says, I have made my final decision, you have no one at all but just the parents to take that burden.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to stand today to tell anyone how they should vote. I think it is probably more appropriate to tell you how I am going to vote and share with you the thinking I went through in deciding that I would not accept the Minority Report.

This has been one of the most difficult issues that I have been faced with this year. I have read nearly two reams of information dealing with pro-choice, pro-life, issues that address neither side. I supported the original bill for several reasons. I felt that it dealt with the issue of abortion. I felt that it placed a value on life of an unborn human being. I felt that it addressed the issue of ready expungement of life as we do now under our current law. I think it addressed the concerns of the child's own improvidence because of her minority. However, right from the beginning, what troubled me most is the cold approach the original bill took, which is now the Minority Report, in



addressing the child's serious crisis of pregnancy. I felt that the original bill, as written, was drastically insensitive to this child in crisis. In fact, I think it penalized her as a result of this crisis. I would even go on to argue to say that it probably exacerbated her crisis.

Who addresses the post-traumatic impact in the event of an abortion? The original bill does not, the amended version of the bill attempts to do that. The amended version of the bill attempts to address the sensitive crisis that this child is in. You know, if we reflect on how our laws are created in society and here in America, a free nation, free thinking nation, the philosophical building blocks were argued many centuries ago between John Locke and Thomas Hobbes. Thomas Hobbes was of the opinion that man was inherently bad. Thomas Hobbes theory is that law emanates from the king or the monarch down to the subjects or to the people and dictate how they must perform so that we can have social rest, social unity. That was heatedly debated with people that drew to the opinion of John Locke. John Locke was of the theory that people are inherently good and that law should emanate from people to their representatives, their representatives act collectively to the social ills in addressing those problems. It is a sensitive approach, it does not train people. It forms a consensus, a social free-willing social contract. Thomas Hobbes' theory did not do that. I would not go as far to say that the original draft of this bill is Thomas Hobbes' in nature carte blanche. However, it has a semblance of Thomas Hobbes. I feel with the amendment that it is John Locke in fashion and the fact that it addresses all concerns. It addresses the concerns of that child in crisis and does not penalize her.

I will explain why I think it is a cold approach to dealing with a child in crisis. Under the original bill, just like the amended bill, that child does not have to seek the consent of either parent. That child can go directly to the court. Some children that are streetwise would probably have no problem with that. Those children that are streetwise most likely will be found by the judge to be either emancipated, if they are independent living or living with a boyfriend or have some source of income that can demonstrate to the court they can be independent or the court will find that that minor is mature enough to make her decision and will grant majority rights for the purpose of self-consenting for the abortion if she chooses to have one. That is under the original bill and it still survives under the amended version of the bill. In fact, the only difference between the original bill and the amended bill, which is the Minority Report/Majority Report, is that which you take in part the Majority Report and you put into that the section dealing with counseling.

The original bill would have you believe that the child, when faced with the courts, the ones that are not streetwise, would run back to mother and father and seek consent. Well, that was advocated very hard, if that is going to happen. I would say it could happen. The fact is that the other option is to go to another state and have an abortion. Who's going to deal with the post-traumatic impact of that child's abortion (which is suffered by so many children) without the proper counseling or informed consent? It would also have you believe that the impact of putting perhaps the structure of a court would increase the use of contraception amongst our minors, it would increase abstinence. Well, I don't think those are realistic. I think perhaps the most realistic approach in dealing with pregnancy and sex

is education. I will be very frank, we have never spent adequate money to address that issue. We have relied on that problem to be dealt with by teachers who have acted now as facilitators. Teachers are teachers. We should have separate people dealing with sex education and we should properly fund that within our school system to address that issue.

If you have a child that is faced with going home and no place else and that family is dysfunctional, is that family going to be any less dysfunctional when that child goes home and seeks the consent? I ask you what the reaction is? It may be positive, it may be negative. In any event, if it is dysfunctional and cannot address the problem of her pregnancy and be sensitive to her needs, what help will she get? Who will address the problem of her post-traumatic impact of the abortion?

Everybody is calling the Majority Report a compromise. I don't see it as a compromise, I see it as an interjection of common sense in a real world in dealing with a real issue. It was drafted in a fashion keeping the cases such as Thornburgh in mind that said, with a counseling section mandating certain things, being intrusive, giving information that was designed to persuade the minor one way or the other, those were unconstitutional. We took those in mind in drafting this counseling bypass. I feel very confident that, if it were to go to the Supreme Court of this state, that it would survive scrutiny under the best possible circumstances.

If we need, some day in the future, two years or four years down the road, to tighten up that part, at least we can do it knowing if we want to tighten it up, that it may be unconstitutional, that that portion may be struck down or may survive but the whole thing will not be skuttled.

I did not do a questionnaire this time around. However, I looked at former Representative Ralph Willey, who had done questionnaires in the past and he had this question on there, last year it came back 85 percent for parental consent. Well, I can comfortably go back to my constituents and say that with the Majority Report, I have voted for a parental consent bill. I have also addressed the issue with the common sense approach in dealing with all the issues as well as recognizing the value of life.

I will agree in part with the Representative from Rockland, Representative McCormick, that there is a flaw, there is a flaw in every law. You can't hit every exception. That flaw is the fact that a doctor giving you counseling, perhaps in many circumstances may be the doctor that is going to perform the abortion — well, that is a flaw. I would submit to you that that probably is a minority of the situations. I place faith in my profession as a lawyer that there are that ten percent or one percent — I wouldn't know exactly what percent but there is a percent of every profession that makes the rest of the profession look bad. Amongst those doctors that perform abortions, I would say, follow to the letter "T" on what they have to go through in informing that child, everything from termination to having the child, adoption, carrying it to full-term, all of that — there will be some doctors that will abuse that. But, I say to you, having something on the books is something that we can address later on.

The most serious flaw however is not in the flaws that we have in that amendment in dealing with the sensitive issue, the major flaw is to not have it at all. That is where I think the Minority Report fails, that is the most serious flaw, it is without that center section.

I would like to close and say that I, too, am a father with two children. My daughter just turned

ten yesterday, my son is 13. We maintain in our household good communication no matter what the circumstances. In fact, a saying we have always had in our family to our children is that, if you lie, you are always going to get in trouble, no matter whether it is with me or with your own conscience but, when you tell the truth, only sometimes you will get in trouble. At least that leaves the line of communication between us in understanding and working out important issues. I would like to be able to think that everybody and every family in this state has that type of communication. Reality is, that they don't. That is why I am going to vote for the Majority Report and against the Minority Report.

At this point, Speaker Martin resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Townsend.  
 Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I stand to address this issue today, not as just a Representative, but as a stepfather of a 16 year old stepdaughter. My wife and I are in our second marriage. We are denied children of our own because of medical reasons. However, I have been blessed by the fact that Janet brought into the marriage, Jennifer. I could not love a child more than I do Jennifer. We communicate well together, we are very lucky. This is why I stand today on this issue.

A number of points keep coming through to me on this. Only teenagers affected by this law are those that are not lucky like Jennifer, those that do not have parents to go to. This alienates them even more, in my opinion. If you want to prevent abortions, which is really the key issue here, you must prevent the pregnancies. I find it ironic that the same groups that support this bill, in many cases, oppose prevention. That makes no sense to me.

As far as wide-spread support of this bill, supporters of this measure could not get enough Maine voters to put their signatures down to bring this to referendum.

Finally and most importantly, if you don't have a good relationship with your children by the time they reach the age when they become sexually active, no law in the land, this land or any land, is going to provide it.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I hate to do this to you but I am compelled. I am in favor of the parent consent legislation as presented by Representative Patrick Paradis. The issue facing us as I see it today is not abortion per se. Abortion, as we all know, is a national issue. The Supreme Court has established this as a right, a freedom of choice for women, it has nothing to do with this Maine law.

People who are too focused on abortion have made this bill into something that I don't believe it is, an abortion bill. This bill we are facing today is a parents rights bill concerning children. We will decide whether parents have the right in the State of Maine to counsel their child, their daughter, on one of the most critical devastating decisions of her life. To say that parents do not have this right is preposterous. The basis of any society is the

strength of the family. To say that mothers who have born a child are not capable of understanding their child, are not experienced enough or capable enough to counsel this young girl, makes absolutely no sense to me. To say that fathers do not have love for their daughters and should not be considered in deciding the welfare of their daughter, makes absolutely no sense to me. Care and concern for the little girls in the family is a family responsibility.

A child in this situation has a great need for love, understanding, and support, not only while they are pregnant, but after there is an abortion. Life goes on for the child and the family, with or without this operation, and a need for support and understanding from family increases. Parents are being classified as incompetent, unsupportive or uncaring by those opposing this bill.

You will also hear the argument that some fathers can't be trusted, many of these children are victims of incest. Sadly, this is true. But, if so, incest is a crime. Do these crimes reported to the clinic, do they get reported or are they swept under the rug? Writing off the parents is a critical situation. In this critical situation, it sounds like family life in Maine is going to hell. You may believe this is so but I don't. The qualities we admire in parents and people are honesty, thoughtfulness, cooperation and the ability to communicate. We are telling these children to lie, don't trust your parents and, above all, don't talk to them. If we want these kids to grow into responsible, intelligent and compassionate adults, we had better decide now that the family has been, is, and always will be, what keeps this society together. We are only as strong as our family life, we must strengthen it, not destroy it.

The strangers who are getting paid to do a job are more competent, more caring and more able to advise our children is pure malarkey, I think. The question is, who knows best how to counsel our children and who should do it? Should it be the lobbyist, paid to lobby this bill, the clinics that are paid to counsel or the doctor who wrote to me who performed (proudly) 2,000 safe abortions? Why should the parents who brought these children into the world be responsible for them now until they reach maturity? You decide, I'll decide, I shall vote for parental consent as proposed by Representative Paradis.

The SPEAKER: The Chair recognizes the Representative from Hallowell, Representative Farnsworth.

Representative FARNSWORTH: Mr. Speaker, Members of the House: As a member of the Judiciary, I feel compelled to just clarify for this body the discussion that we have been having about this being a parents rights bill — I believe in informed consent and I think that applies to this legislative body as well. I think if anybody votes for this bill believing that they are guaranteeing parents' rights, not only they but their constituents are going to be very upset, because this bill, in my opinion, actually would be a fairly radical departure from the existing law with respect to the role of the state in a family matter like this. Those of us who have supported the Committee Amendment have a lot of differences. One thing we did share was the respect for the family and a concern for the child in this situation. I think that if this bill were to pass, you would have a radical change in the sense that, for the first time, you have government deciding whether somebody else's child is going to have a baby. I think that is something that nobody wants, even the proponents of the bill, but it is just very



easy to keep on denying that that is clearly what this bill does.

Both bills provide parental consent as an option. It is only an option because, as the Committee Chair pointed out in his opening speech, the Supreme Court does not presently allow as a constitutional matter an abortion to be restricted by only the parents consent. That is the law right now. So, we could not pass a bill, we could not amend the original bill to take out judicial consent and just have parents consent. It is not the law right now that a minor may not have an abortion without a parents consent.

Right now, abortions are performed on minors without judicial intervention and without parents consent. We don't have a law on the books that says this is okay in the same way that this does. This is an affirmative statement that, if you don't like what your parents are telling you, then go to court. I find that, personally, more disruptive of family life than no law at all and certainly much more disruptive than the Committee Amendment which keeps the parental consent option, keeps the judicial option, and adds in options that are consistent with providing the minor, who has already decided at some level to at least look into having an abortion, with information counseling and some encouragement to seek support from her family.

I think that this whole issue is a complex issue and people tend to talk about it in shorthand terms, one of them being consent. I don't believe any of the supporters of either the bill or the Committee Amendment, for example, want to require parental consent if you really think about what that means. Nobody wants to have the state require that parents consent to abortions. What we all are talking about is parental involvement, parental communication, as has been suggested. I think that the real danger in talking about this is as a parents rights bill is to create the impression that we are either guaranteeing something that we cannot guarantee right now under the existing law or that we are creating something. In both cases, that is not correct. As a matter of fact, we (in my opinion) would be establishing legally the right of the state to intervene in this decision that is such a personal matter. I personally think I would have preferred to have seen no law at all for that very reason. I think it is more helpful to family unity not to have the state involved in these kinds of decisions but I was persuaded that there is so much concern about it that there is very likely going to be some kind of law passed here. I am concerned that what we pass be reasonable and that it address the interest of the minor. I have had long discussions with constituents who support parental consent and they don't understand, they do not understand that this bill says, if you don't like what your parents tell you, then you can go to court to get the consent you are looking for.

I would point out that those of you who were not at the hearing, we heard quite a bit of testimony about statistics. One that impressed me the most was the fact that Massachusetts, in 1980, passed a law very similar to this and has had approximately 6,000 abortions performed since then on minors who went to a judge for consent. Out of the 6,000 cases that went to judges for consent under a law with provisions just like this, all but 11 were granted by the judge. Of those 11 that were denied, all but one of the denials were overturned within 72 hours and the remaining minor that did not get judicial consent for an abortion went out of state. So, the judicial

consent is like a green light, if your parents give you the red light. This is not a parents rights bill.

I believe that all of our constituents, and there are many, who are committed to parental consent as a concept, are being misled if they believe that the original bill, for that matter even the Committee Amendment, is going to guarantee parents rights to have a role in the abortion because it does just the opposite.

For that reason, I seriously urge you to vote against the Minority Report. I would request that you consider voting for the Majority Report.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I guess we are all bragging here a little bit this morning. I am a father of five children. I am also a grandfather, eight grandchildren, maybe somebody will top that one.

Representative Carroll and others have mentioned about what family means and how we would like to see it all happen. I am sure no law we pass here can make that happen. I feel bad about that, but that is the way it is. It seems clear to me that if you truly want parental consent, then you would be supporting the Minority Report. To allow a person who may be the very person who is in the business of making dollars by helping perform abortions, to let that person help a minor in making her decision, is a way to kill this bill and the other.

In the last session, that is about what happened. The minor can now go to those persons named in the Majority Report but I believe the final decision should be in the hands of the parents if possible. If not, then the court.

You know, I think we have come full circle, we taught in the schools how, we try to teach prevention and now we must face the problem that we have helped create. I don't believe Roe versus Wade addresses parental consent.

I would hope you would vote for the parental consent bill and vote for the Minority Report.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: Most of us in this House are parents, grandparents. A few of us came from large families, we have had a lot of younger brothers and sisters and I think that most of us could deal with the problem of a minor getting pregnant. It is not the end of the world but I do believe it is a family matter and I believe it is a family decision whether that teenager has an abortion or whether she does not. We all realize there are teenagers out there who cannot go to their parents or who do not feel as though they can go to their parents. I am sure there are a lot of teenagers out there who are ashamed to go to their parents. But if they did, their parents would treat it and make the right decision for them and they would sit down and discuss it.

As a parent, I, too, would probably have been very hurt but I am sure I could have accepted it. I have accepted other things in my life.

What the Minority Report will not do, it will not ensure family unity. I believe it is a beginning. I agree with Representative Carter when he said, maybe we have caused some of these problems, so maybe this is a beginning and we should go on and teach some of these kids or even adults, parenting.

That was brought home very clearly to me by my dentist. Before coming up here in January, the last week in December, I had my dentist appointment. The dentist I go to is a young dentist, he has just moved

to New Hampshire from the mid-west. When you go in -- small talk, and he said he and his wife had just had a new baby daughter. I congratulated him. He said now we are taking a parenting course. Coming from a large family, being next to the oldest, I thought to myself, why would they need to do that? My mother taught me how to take care of babies. I said, "Why did you feel that you have take a parenting course? I would be interested in your thoughts." He is a dentist and his wife is also a professional and he said, "Because we brought this new little baby home from the hospital, we looked at her and at each other and we said, what do we do with her?" I thought how intelligent that is. They did not know and they went to take parenting courses.

I believe that is what we have to do in this state and that is to start to teach people how to be parents because there are people out there who do not know how and that is where the family unity will probably begin, not in abortion clinics, not with the abortion doctor making a decision whether one of my teenage granddaughters or someone else can have an abortion or not.

I urge you to support the Minority Report of L.D. 622.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I want to tell you today that this debate has brought back some very strong and very difficult memories for me. Years ago, as a young social worker, I had a very special job. I was a counselor for girls between the ages of 12 and 19 who were pregnant. I was hired by a federal program called the Maternal and Infant Care Program at that time. The object of the program was to help young women who were pregnant make decisions about the rest of their lives. We knew there were back street abortions going on in Cleveland, Ohio at the time. We knew that there were girls that were running away from home. We knew there were others who were scared, frightened and didn't tell anyone and tried to perform abortions on themselves.

I was about 24 years old at the time and I didn't have a great deal of experience dealing with the inner city life. But in a period of about six months before the money ran out, I became the counselor for these young women and, in many cases, for their parents as well. I went out on the streets, I went to their clubs, bars, places where I knew I could find them. I found them, I found the young men who in some cases were the fathers of their children. We began to meet in small groups, we talked about their situations and, in many cases, I was the intermediary who helped them develop the communication with their parents, who helped them to be able to go home to their families and talk about this and make a rational decision for themselves and for their unborn child and, in some cases, for the child after the child was born.

That was a very important learning experience for me and it has affected the rest of my life. I think that here today we are making a decision, not for the girls who will be able to tell their parents and who are already telling their parents, but we are making a decision for those young women who, for whatever reasons, feel they cannot tell their parents. We are offering them only two choices if we accept the Minority Report, tell your parents who may have been abusive, who may have sexually abused or physically abused you or you may go to court, which is also the punitive system in our society.

What we are asking you to do today is to vote against the pending motion so that we can offer these

young women the middle range of alternatives, the one that will help them make the right decision, help them develop lines of communications with the right people. Please, I would ask you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: We must decide today the care and protection to be given to 78 Maine youths who obtained abortions in 1987 without knowledge of their parents. These laws, neither that of the Majority or the Minority Reports, concerns the other 316 Maine youths who also had an abortion in that year, as their parents were involved.

It is today that we focus on 78 young people who act alone. This is a terrible place to discuss the needs of those 78 people. Yet, this House is the place in our democracy, it is the place of Jew and Gentile, of followers of Mohammed and Buddha, of believers and nonbelievers, where we have to seek a commonality of interests and faith to make rules which a consensus of all people, hopefully, will follow.

Caesar did not make families nor can we today. A family is created in lust and maintained with mutual help, participation, communication and respect. No law known to man can create or perpetuate families. In fact, these 19 volumes of Maine Laws do not establish and cannot create nor dictate a family relationship.

I speak not of any of you, yet of all of you. None probably is a parent of one of those 78 children, yet all of us have fathers and mothers, brothers, sisters, children or grandchildren and even ourselves who have fractured or dysfunctional parts of our family. Some of our parents are addicts and alcoholics. Some of us have parents who are misguided in their ideals so that wealth is their chief concern. Some of our parents are poor and uneducated and labor just to live. Some of our parents are abusive, they beat their children. Some of our parents maintain latchkey homes and, for any number of reasons, those children grow alone.

There is no question that many of the 78 kids that we deal with today come from these homes, not all, but many. The Minority Report that you are asked to support today tells these 78 kids you may get an abortion because that is your legal right, the court tells you you may have that abortion, our laws give us that right and yet you must go to court to get that parental consent that is not otherwise available to you in your own family unit.

As a young lawyer, I know the fear that court held for me. Judges wear black robes, they sit as does Mr. Speaker in elevated locations to generate and command our respect and obedience. It is true, that is part of the way that we have created those institutions and it works well in situations of civil conflict. But, is this our concept of kindness, of education and support and compassion for these 78 youths? Children must and do become adults, some sooner than others. They leave homes at all ages due to many circumstances. 78 children became pregnant and had an abortion in 1987, their parents were not involved. My new York County friend who sits in this House says, it tain't right, these parents ought to be involved. Yet as a farmer, does he not wonder why all the birds of the fields build their nests without doors? Families exist without doors. We cannot make families who are kind and sharing and alive. These relationships are moral structures created by hard work, sacrifice, generosity and respect well earned. 78 children did not have such a family. Can we

legislate a family for them? Are we that powerful and creative, when today we don't even know how to solve the many problems of our own environment?

Today the Majority Report seeks not to create family but to bring knowledge through education and counseling; caring through confidentiality and support to reach out to family through encouragement of a counselor to these 78 children.

The Minority Report only allows the black robed judge to decree an abortion in matters where a judge has no training to make that decision. Is this a fair alternative for those 78 children? Are we so lacking in compassion that we cannot reach out to the 78 youths who have a family whose ties have been broken and are in disrepair? We are not perfect, we do not make perfect laws, but we can look how compassionate and kind those laws will be for 78 children. We all come from nests without doors and those children who have left, are we the ones who will lock them into a court system for their right to an abortion, for their health when they are pregnant?

You must remember that the committee of 12 that spoke in the Judiciary represented a rainbow of ideas. From one end of the fan to the other, it was a great stretch to come to a consensus report. The Majority Report sought, as did we in our democracy, a commonality of interests and ideas. It is not to satisfy the needs of those on each fringe of that fan of the rainbow but rather it is to give them part of what they seek with the help of those who in the middle can reach and argue and persuade and urge them to a center course that we, by consensus, can follow.

This is not a parental consent bill. This is a bill that protects 78 children who seek abortions in this state without the knowledge of their parents. They have the right to that abortion. Are we willing to give them their education and help in following that right?

I urge you to vote against the motion on the floor for the Minority Report and give the consensus to the process which coalesce a rainbow of ideas into that Majority Report.

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

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

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

The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Higgins of Scarborough. If Representative Higgins were present and voting, he would be voting yea; I would be voting nay.

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

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Tardy of Palmyra. If Representative Tardy were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Paradis of Augusta that the House accept the Minority "Ought to

Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 16

YEA - Aliberti, Anderson, Bailey, Boutilier, Carroll, J.; Carter, Cashman, Chonko, Clark, H.; Crowley, Curran, Dexter, DiPietro, Duffy, Dutremble, L.; Farnum, Farren, Gould, R. A.; Hichborn, Hickey, Hussey, Hutchins, Jacques, Jalbert, Lebowitz, Look, Lord, Luther, Martin, H.; McCormick, McGowan, McHenry, McSweeney, Merrill, Michaud, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pineau, Pines, Plourde, Pouliot, Richard, Rotondi, Ruhlin, Seavey, Sheltra, Sherburne, Smith, Stevens, A.; Strout, D.; Tamaro, Telow, Tupper, Walker, Wentworth, The Speaker.

NAY - Adams, Aikman, Allen, Anthony, Ault, Begley, Bell, Brewer, Burke, Butland, Carroll, D.; Cathcart, Clark, M.; Coles, Conley, Constantine, Cote, Daggett, Dellert, Donald, Dore, Erwin, P.; Farnsworth, Foss, Foster, Garland, Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hastings, Heeschen, Hepburn, Hogle, Holt, Joseph, Kilkelly, LaPointe, Larrivee, Lawrence, Libby, Lisnik, MacBride, Macomber, Mahany, Marsano, Marsh, Marston, McKeen, McPherson, Melendy, Mills, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, Oliver, Pederson, Pendleton, Priest, Rand, Richards, Ridley, Rolde, Rydell, Simpson, Skoglund, Small, Stevens, P.; Stevenson, Strout, B.; Swazey, Townsend, Tracy, Webster, M.; Whitcomb.

ABSENT - Hanley, Jackson, Ketover, Manning.

PAIRED - Higgins, Mayo, Reed, Tardy.

Yes, 60; No, 82; Absent, 4; Vacant, 1; Paired, 4; Excused, 0.

60 having voted in the affirmative and 82 in the negative with 4 being absent, 4 paired and 1 vacant, the motion did not prevail.

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

Representative MACBRIDE: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will vote against the motion to accept the Majority "Ought to Pass" Report. You have heard an awfully lot of debate this morning about the Minority Report. You have heard about the Majority Report.

I have perhaps about a half hour's comments to make about the Majority Report, the most important being the sections regarding informed consent and the effects and need of doctors having to prescribe certain options to the patient in front of them. If the Chair would like me to desist, I would reserve my comments for later in today's session, Mr. Speaker.

The SPEAKER: The Representative has the floor.

Representative PARADIS: Mr. Speaker, Members of the House: Representative from Hampden, Representative Richards, my colleague on the Judiciary Committee, made a statement several months ago that perhaps there are problems with the report that he signed but that it would be a beginning and we could make improvements upon it after the court had acted, that it was better to have something than nothing. My father, in explaining to me certain ideas of debate, said that a chain is only as strong as its weakest link. I would ask you to turn to the very, very last section of their committee report, Section 9 and read non-severability. "In the event that any portion of this section is held invalid, it

is the intent of the legislature that this entire section is invalidated."

All the good things you have heard them say about their report and how much they want to counsel young teens who are faced with the awful dilemma becomes moot when you put a section in, that if one word of this bill as they proposed, is questioned by the court, the entire section is made invalid, null and void. I have been here eleven years and I don't recall any time where we have ever considered a bill where we included a section, even when we knew that there might be a constitutional question, for instance on the Tree Growth Tax, that when a court would review that, it would strike down everything that we had done in the report. If there is so much consensus as to how good and how much we need to do just a little something, just begin to address the issue of parents and teens, why have that section in the bill? Why? I think I can add a couple of ideas. One, the legislature in 1979 passed Chapter 360 of the Public Laws and signed by the Governor. It was perhaps immediately enjoined by the Supreme Court of the State of Maine. It was called "An Act to Ensure that Informed Consent is Obtained Before an Elective Abortion is Performed." Only one line of that bill ever became law and some members of this body even participated in enjoining that law before the State Supreme Court in preparing that it be invalidated. One line in the whole bill. It said, "According to his best judgment, she is pregnant." That is the only law we have right now about informed consent.

It is unconstitutional, not because I wish it so, not because this body says it is so, but because the United States Supreme Court says it is so and how long ago did they say it, how long ago did they repeat it? In 1986, in Thornburgh versus American College of Obstetricians and Gynecologists, the court struck a Pennsylvania statute providing for a list of agencies that could assist the minor in continuing the pregnancy even though, as in that committee amendment, the minor could choose not to examine the list. Indeed, the court said, the gravement of the court's decision was their requiring any detail beyond simply specifying that consent be "informed" is unconstitutional because it infringes on the discretion of abortion performing physician. The court held that a state may not officially structure the dialogue between the woman and her physician. That is precisely what the committee amendment is designed to do in providing a way for a minor to get around that structure does not, Thornburgh holds, cure the unconstitutionality of that Committee Amendment "A".

I am not even a lawyer and I can understand English, it is my mother tongue, when the court says that you cannot require the common law doctrine that a physician has a private responsibility to his patient and that you cannot infringe on that. You can't get around it by asking someone else. I always find it interesting that, when they delineate, who those other people are that are going to take the place of Mom and Dad, that they go all the way from a physician to a licensed practical nurse in the State of Maine. Last year, we heard an awful lot about Tort Reform and the problems with liability -- some of the most grieved professions in this state who have problems with sexual abuse of patients are listed on that page. We are talking about psychiatrists and psychologists and social workers. There isn't a month that goes by that we don't read about a doctor of some kind that has been referred to the board of their professional responsibility for investigation of abuse of minor children, boys and

girls. We are going to send this abused teen that they like to quote about, those 78, I don't know where those statistics came from, but we are going to send that same abused teen that they like us to think that Dad abused her and send her now to a doctor who does abuse himself. Sometimes we can't always be in a win/win situation.

The Maine Sunday Telegram this past Sunday said of this committee amendment, "The committee's proposal is worthless and ought to be scrapped. The compromise offers House and Senate members a win/win opportunity, a chance to go on record as voting for parental consent, thus pleasing abortion opponents while placing no real restrictions on teenagers rights to choose abortion as pro-choice supporters advocate." That is a handy record to have as election time rolls around. That is really the crux of the matter. I find it unfortunate that some people in this body would like to have a roll call in their pocket to be able to take it out at election time and say, "Oh no, I voted against the Maine Right-to-Life Bill, I voted for parental consent, I have the roll call right here." That isn't parental consent. When you equate the parent with an adult family member, your 18 year old sister can take you to an abortion clinic and function as the parent -- you can't do it in any other situation but you can do it as a vis-a-vis abortion. You can have a licensed practical nurse explain to you everything that needs to happen and your options and that is the same thing as Mom and Dad explaining it. They are going to do an objective part to do it.

We had two young women who came to the committee and testified that they had had abortions. They hoped that we would pass this bill so they wouldn't have to go through the situation that they went through. Not one young woman who had ever had an abortion came to our committee and said, "Please leave the status quo the way it is. Please leave the Supreme Court's decision and other laws just the way it is, we are satisfied with it." Where were those other women who went through that procedure? Our committee held 7 hours of hearings this past April -- where were they to tell us that they were happy with what we did, we are happy with the law the way it is now?

There was a statement made over the weekend that was read to the press by the Chancellery of the Diocese of Portland. It said, "On its own, if you were to pass this bill, it would have to go to court to protect its own rights, those of the people that it employed, priests, nuns and lay people, who are involved in social services because of what Committee Amendment "A" would force them to do." Under the separation of church and state, they would be required to violate their conscience and tell young women that they ought to have an abortion. The bill even lists ordained clergy, never once in 11 years of lawmaking have I ever seen that term passed by this body that would require priests or ministers to participate in abortion counseling. I find it abhorrent to my conscience to think that this state would mandate that type of moral responsibility.

On number 4 of that amendment regarding information and counseling for minors, a counselor is mandated by statute to provide all options because the options include abortion and because definition of counselors include ordained clergy, counselors and physicians who make work for churches or church-affiliated institutions -- this section is unconstitutional and a violation of separation of church and state. Don't be led to believe that since they have included everyone under the rainbow that that makes it a good bill.

One last comment -- my friend from Fryeburg spoke eloquently about the nest without doors, about how birds, when making their nests, do not have any doors, I am glad that he mentioned the animal kingdom because there isn't one species in that animal kingdom that aborts its young. They obey the laws of nature and they respect the laws of nature because God created them the way he created us, in his image and his likeness to obey him and they would not violate what God ordained for them in their body.

I hope that you will vote against the motion to accept the Majority Report and when the vote is taken, I ask for the yeas and nays.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Presque Isle, Representative MacBride, that the House accept the Majority "Ought to Pass" Report.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Palmyra, Representative Tardy. If he were present and voting, he would be voting nay; I would be voting yea.

The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with the Representative from Scarborough, Representative Higgins. If he were present and voting, he would be nay; I would be voting yea.

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

ROLL CALL NO. 17

YEA - Adams, Allen, Anthony, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Cathcart, Clark, M.; Coles, Conley, Constantine, Cote, Daggett, Dellert, Donald, Dore, Erwin, P.; Farnsworth, Farnum, Foster, Graham, Greenlaw, Gwadosky, Hale, Handy, Hastings, Heeschen, Hوجلund, Joseph, Kilkelly, LaPointe, Larrivee, Lawrence, Libby, Lisnik, MacBride, Macomber, Mahany, Marsano, Marsh, Marston, McCormick, McKeen, McPherson, Melendy, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, Oliver, Pederson, Priest, Rand, Richards, Rolde, Rydell, Simpson, Skoglund, Stevens, P.; Strout, B.; Swazey, Tracy, Whitcomb.

NAY - Aikman, Aliberti, Anderson, Bailey, Bell, Boutilier, Carroll, J.; Carter, Cashman, Chonko, Clark, H.; Crowley, Curran, Dexter, Dipietro, Duffy, Dutremble, L.; Farren, Foss, Garland, Gould, R. A.; Gurney, Hepburn, Hichborn, Hickey, Holt, Hussey, Hutchins, Jacques, Jalbert, Lebowitz, Look, Lord, Luther, Martin, H.; McGowan, McHenry, McSweeney, Merrill, Michaud, Moholland, Murphy, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pendleton, Pineau, Pines, Plourde, Pouliot, Richard, Rotondi, Ruhlin, Seavey, Sheltra, Sherburne, Small, Smith, Stevens, A.; Stevenson, Strout, D.; Tammaro, Telow, Townsend, Tupper, Walker, Wentworth, The Speaker.

ABSENT - Hanley, Jackson, Ketover, Manning, Ridley, Webster, M.

PAIRED - Higgins, Mayo, Reed, Tardy.

Yes, 69; No, 71; Absent, 6; Vacant, 1; Paired, 4; Excused, 0.

69 having voted in the affirmative and 71 in the negative with 6 being absent, 4 paired and 1 vacant, the motion did not prevail.

Subsequently, the Minority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-127) was read by the Clerk and adopted and the Bill assigned for second reading Friday, May 5, 1989.

On motion of Representative Mayo of Thomaston, Adjourned until Friday, May 5, 1989, at twelve o'clock noon.