

# 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  
Friday, May 5, 1989**

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

Prayer by Reverend Malcolm Burson, Saint James Episcopal Church, Old Town.

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

**PAPERS FROM THE SENATE**

Bill "An Act to Expand the Health Occupations Training Project" (S.P. 535) (L.D. 1470)

Bill "An Act to Enhance the Auditing and Fiscal Analysis Capabilities of the Maine Legislature" (S.P. 537) (L.D. 1472)

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

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

Bill "An Act Relating to County Sheriffs" (S.P. 536) (L.D. 1471)

Came from the Senate, referred to the Joint Select Committee on Corrections and Ordered Printed.

Was referred to the Joint Select Committee on Corrections in concurrence.

Bill "An Act to Establish a Statewide Contract for Teachers" (S.P. 539) (L.D. 1474)

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

On motion of Representative Crowley of Stockton Springs, was referred to the Committee on Labor in non-concurrence and sent up for concurrence.

Resolve, to Establish the School Organization Study Committee (S.P. 534) (L.D. 1469)

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 Implement, Administer and Enforce the United States Emergency Planning and Community Right-to-Know Act of 1986" (EMERGENCY) (S.P. 540) (L.D. 1475)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Set Up Therapeutic Foster Homes" (EMERGENCY) (S.P. 530) (L.D. 1465)

Bill "An Act to Prohibit the Irradiation Within the State of Food for Human or Animal Consumption" (S.P. 533) (L.D. 1468)

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

Were referred to the Committee on Human Resources in concurrence.

Bill "An Act to Waive Restrictions on Certain Physicians" (S.P. 531) (L.D. 1466)

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

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Facilitate the Expeditious Resolution of Certain Superior Court Cases" (S.P. 532) (L.D. 1467)

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

On motion of Representative Paradis of Augusta, was referred to the Committee on Legal Affairs in non-concurrence and sent up for concurrence.

Bill "An Act Concerning the Imposing and Collection of Fines for Motor Vehicle Infractions Pertaining to Rental Vehicles" (S.P. 538) (L.D. 1473)

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

Was referred to the Committee on Transportation in concurrence.

**Unanimous Ought Not To Pass**

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act Authorizing Sale of Liquor Outside of Exclusive Territory" (S.P. 240) (L.D. 570)

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

**Refer to the Committee on Appropriations and Financial Affairs**

Report of the Committee on Human Resources on Bill "An Act to Revise the Eligibility Requirements for Elderly Low-cost Drug Recipients" (EMERGENCY) (S.P. 183) (L.D. 340) reporting that it be referred to the Committee on Appropriations and Financial Affairs.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Appropriations and Financial Affairs.

Report was read and accepted and the Bill referred to the Committee on Appropriations and Financial Affairs in concurrence.

**Divided Report**

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Provide a Tax Exemption on the Property of Fish and Game Clubs" (S.P. 224) (L.D. 540)

Signed:

Senators: ANDREWS of Cumberland  
BALDACCI of Penobscot  
EMERSON of Penobscot  
Representatives: DiPIETRO of South Portland  
CASHMAN of Old Town  
DORE of Auburn  
SEAVEY of Kennebunkport  
NADEAU of Saco  
WHITCOMB of Waldo  
SWAZEY of Bucksport

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

Signed:

Representatives: TARDY of Palmyra  
DUFFY of Bangor  
JACKSON of Harrison

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

Reports were read.

On motion of Representative Nadeau of Saco, the House accepted the Majority "Ought Not to Pass" Report in concurrence.

Representative Aliberti of Lewiston that L.D. 1503 be referred to the Committee on Agriculture and later today assigned.

**Non-Concurrent Matter**

An Act to Increase the Compensation of the Board of Dental Examiners and Secretary-Treasurer of the Board (S.P. 168) (L.D. 325) (C. "A" S-45) which was passed to be enacted in the House on April 27, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-45) and Senate Amendment "A" (S-80) in non-concurrence.

The House voted to recede and concur.

**COMMUNICATIONS**

The following Communication:

DEPARTMENT OF LABOR  
BUREAU OF LABOR STANDARDS  
STATE HOUSE STATION #45  
AUGUSTA, MAINE 04333  
May 5, 1989

The Hon. John L. Martin      The Hon. Charles P. Pray  
Speaker of the House      President of the Senate  
State House Station #2      State House Station #3  
Augusta, Maine 04333      Augusta, Maine 04333  
Dear Speaker Martin and President Pray:

I am pleased to submit, in accordance with 26 M.R.S.A., Chapter 22, Section 1724, the enclosed 1989 report on the Maine Chemical Substance Identification Program.

This program year has been the most active to date. Our staff have conducted 317 training programs, reaching over 6,525 workers during calendar year 1988. In addition, 171 inspections were conducted, resulting in approximately 515 citations.

Please do not hesitate to contact me directly with any questions or comments regarding this program or the report.

Sincerely,  
s/James H. McGowan  
Director

Was read and with accompanying report ordered placed on file.

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

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

**Agriculture**

Bill "An Act Regarding Documentation of Rabies Shots for Dogs Brought into This State" (H.P. 1076) (L.D. 1498) (Presented by Representative SMITH of Island Falls) (Cosponsored by Representative HUSSEY of Milo, Representative PINES of Limestone and Representative BELL of Caribou)

Ordered Printed.  
Sent up for Concurrence.

**Later Today Assigned**

Resolve, Creating a Commission to Study Commodity Taxes on Farmers (EMERGENCY) (H.P. 1081) (L.D. 1503) (Presented by Representative WHITCOMB of Waldo)

(The Committee on Agriculture had been suggested.) Representative Aliberti of Lewiston moved that L.D. 1503 be referred to the Committee on Agriculture.

On motion of Representative Gwadlosky of Fairfield, tabled pending the motion of

**Appropriations and Financial Affairs**

Bill "An Act to Create the Maine Affordable Housing Land Trust Fund" (H.P. 1085) (L.D. 1507) (Presented by Representative NADEAU of Lewiston) (Cosponsored by Speaker MARTIN of Eagle Lake, Senator DUTREMBLE of York and Representative DONALD of Buxton)

Bill "An Act to Appropriate Funds for Independent Congregate Meals" (H.P. 1074) (L.D. 1496) (Presented by Representative SIMPSON of Casco) (Cosponsored by Representative LARRIVEE of Gorham, Senator TITCOMB of Cumberland and Senator ESTY of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

**Energy and Natural Resources**

Bill "An Act to Regulate Water Flowage over Hydropower Dams" (H.P. 1086) (L.D. 1508) (Presented by Representative CARTER of Winslow) (Cosponsored by Representative JACQUES of Waterville, Representative MCGOWAN of Canaan and Representative CLARK of Millinocket)

Ordered Printed.  
Sent up for Concurrence.

**Housing and Economic Development**

Bill "An Act for the 1989 Amendments to the Maine Housing Authorities Act" (H.P. 1088) (L.D. 1510) (Presented by Representative MELENDY of Rockland) (Cosponsored by Senator DUTREMBLE of York, Representative BAILEY of Farmington and Representative LEBOWITZ of Bangor)

Ordered Printed.  
Sent up for Concurrence.

**Human Resources**

Bill "An Act to Continue Habilitation and Vocational Rehabilitation Services to Eligible Clients" (H.P. 1082) (L.D. 1504) (Presented by Representative MANNING of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

**Judiciary**

Bill "An Act to Amend the Maine Bail Code with Respect to Mandatory Training as a Condition of Appointment of Bail Commissioners" (EMERGENCY) (H.P. 1079) (L.D. 1501) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representative RICHARDS of Hampden)

Bill "An Act to Amend the Maine Tort Claims Act" (H.P. 1083) (L.D. 1505) (Presented by Representative CONLEY of Portland)

Ordered Printed.  
Sent up for Concurrence.

**Human Resources**

Bill "An Act to Provide Flexibility in the Laws on Residential Placement of Young Adults" (H.P. 1087) (L.D. 1509) (Presented by Representative FARNSWORTH

of Hallowell) (Cosponsored by Representative CLARK of Brunswick, Senator BRANNIGAN of Cumberland and Representative BURKE of Vassalboro)

(The Committee on Judiciary had been suggested.)

On motion of Representative Paradis of Augusta, was referred to the Committee on Human Resources, ordered printed and sent up for concurrence.

**Labor**

Bill "An Act to Provide Stipend Payments under the Workers' Compensation Act to Claimants Whose Cases Are Not Resolved within 2 Years" (H.P. 1084) (L.D. 1506) (Presented by Representative HEPBURN of Skowhegan) (Cosponsored by Representative MARTIN of Van Buren and Representative HICKEY of Augusta)

Ordered Printed.

Sent up for Concurrence.

**Legal Affairs**

Bill "An Act to Remove Restrictions from Beano Revenues of Nonprofit Organizations" (H.P. 1077) (L.D. 1499) (Presented by Representative CARTER of Winslow) (Cosponsored by Representative JOSEPH of Waterville, Representative JACQUES of Waterville and Senator MATTHEWS of Kennebec)

Ordered Printed.

Sent up for Concurrence.

**Marine Resources**

Bill "An Act to Amend the Nonresident Clamming License Laws" (H.P. 1078) (L.D. 1500) (Presented by Representative ALLEN of Washington) (Cosponsored by Representative BEGLEY of Waldoboro)

Ordered Printed.

Sent up for Concurrence.

**Taxation**

Bill "An Act Concerning the State Valuation Procedure" (H.P. 1080) (L.D. 1502) (Presented by Representative SEAVEY of Kennebunkport)

Ordered Printed.

Sent up for Concurrence.

**Transportation**

Bill "An Act to Authorize Posting of a Sign on Interstate 95 for the Kennebec Valley Vocational-Technical Institute" (H.P. 1075) (L.D. 1497) (Presented by Representative GWADOSKY of Fairfield) (Cosponsored by Representative JACQUES of Waterville, Representative MCGOWAN of Canaan and Representative CARTER of Winslow) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

**REPORTS OF COMMITTEES**

**Unanimous Ought Not to Pass**

Representative CASHMAN from the Committee on Taxation on Bill "An Act Concerning Taxation of Certain Business Enterprises" (H.P. 523) (L.D. 708) reporting "Ought Not to Pass"

Representative CASHMAN from the Committee on Taxation on Resolve, Exempting the Meduxnekeag Ramblers Snowmobile Club, Inc. from Paying Sales Tax on the Purchase of Snow Grooming Equipment (H.P. 685) (L.D. 937) reporting "Ought Not to Pass"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Promote Community Involvement in Law Enforcement Activities" (H.P. 117) (L.D. 154) 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 CASHMAN from the Committee on Taxation on Bill "An Act Concerning Sales Tax on Telephone Installation Services" (H.P. 574) (L.D. 778) reporting "Leave to Withdraw"

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

**CONSENT CALENDAR**

**First Day**

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

(S.P. 275) (L.D. 721) Bill "An Act to Amend the Protection From Harassment Laws" Committee on Judiciary reporting "Ought to Pass"

(S.P. 422) (L.D. 1133) Bill "An Act to Require a County Jailer to Return List of Prisoners" Committee on Judiciary reporting "Ought to Pass"

(H.P. 538) (L.D. 735) Bill "An Act to Improve the Cost-of-living Adjustment Under the Maine State Retirement System" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-140)

(H.P. 805) (L.D. 1117) Bill "An Act to Increase Family Support Services to Maine Families Who Choose to Care for Their Developmentally Disabled Children at Home" Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H.P. 280) (L.D. 392) Bill "An Act to Increase Displaced Homemakers Program Funding to Continue Rural Outreach, Employment and Training and Support Services for Maine Displaced Homemakers" Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H.P. 498) (L.D. 678) Bill "An Act to Fund Repairs for Damage to the Hartland Dam" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-142)

(H.P. 534) (L.D. 731) Bill "An Act to Amend the Definition of Employer to Include Governmental Entities" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-143)

(H.P. 472) (L.D. 637) Bill "An Act to Improve Personnel Supervision in the Bureau of Intergovernmental Drug Enforcement" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-147)

(H.P. 257) (L.D. 369) Bill "An Act to Amend the Special Warehouse Storage Facilities Provision" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-146)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 8, 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:

(S.P. 218) (L.D. 534) Bill "An Act Regarding Alcohol Credit Sales"

(S.P. 53) (L.D. 28) Bill "An Act Relating to the Licensing of Insurance Agents, Brokers and Adjusters" (C. "A" S-74)

(S.P. 68) (L.D. 56) Bill "An Act to Correct Liquor License Fees" (Emergency) (C. "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) (C. "A" S-77)

(S.P. 136) (L.D. 221) Bill "An Act to Revise the Particulate Matter Air Quality Standard" (C. "A" S-76)

(S.P. 161) (L.D. 309) Bill "An Act to Make Changes to the Public Utilities Commission Laws" (C. "A" S-78)

(H.P. 433) (L.D. 598) Bill "An Act Regulating the Use of Fish and Game Roadblocks and Check Stations" (C. "A" H-137)

(H.P. 745) (L.D. 1028) Bill "An Act to Facilitate Treatment of Abused and Neglected Children" (C. "A" H-138)

(H.P. 119) (L.D. 156) Bill "An Act to Increase the Age Limit for Child Support" (C. "A" H-139)

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 as Amended and sent up for concurrence.

**PASSED TO BE ENGROSSED  
As Amended**

Bill "An Act to Enhance the Integrated Pest Management Capabilities of Agriculture in Maine" (S.P. 357) (L.D. 958) (S. "A" S-79)

Was reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence.

**Later Today Assigned**

Bill "An Act to Require Parental Consent to a Minor's Abortion" (H.P. 457) (L.D. 622) (C. "B" H-128)

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

Representative Gwadosky of Fairfield moved that the House reconsider its action whereby the Minority "Ought to Pass" Report was accepted.

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

**ENACTOR  
Emergency Measure  
Later Today Assigned**

An Act to Amend the Laws Relating to Notaries Public (H.P. 241) (L.D. 353) (C. "A" H-105)

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

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

**ENACTOR  
Later Today Assigned**

An Act to Clarify Maintenance of Private Roads and Ways by Municipalities (H.P. 271) (L.D. 383) (C. "A" H-84)

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

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

**PASSED TO BE ENACTED**

An Act to Increase the License Fees for Hospitals and Long-term Care Facilities (S.P. 163) (L.D. 320) (C. "A" S-61)

An Act to Improve Indoor Air Quality Through Accurate Testing and Effective Reduction of Radon Levels in Buildings (H.P. 655) (L.D. 889) (C. "A" H-111)

An Act to Ensure Proper Representation on the Region II Crisis Intervention Program Advisory Board (S.P. 325) (L.D. 862) (C. "A" S-63)

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

**PASSED TO BE ENGROSSED  
As Amended**

An Act to Improve the Air Quality by Limiting the Sulfur Content of Fuel (H.P. 528) (L.D. 713) (C. "A" H-112)

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

On motion of Representative Michaud of East Millinocket, under suspension of the rules, the House reconsidered its action whereby L.D. 713 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-112) was adopted.

The same Representative offered House Amendment "A" (H-141) to Committee Amendment "A" (H-112) and moved its adoption.

House Amendment "A" (H-141) to Committee Amendment "A" (H-112) was read by the Clerk and adopted.

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

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

**PASSED TO BE ENACTED**

An Act Concerning Transportation Expenses for Former AMHI Patients (S.P. 246) (L.D. 576) (C. "A" S-62)

An Act to Provide Funding for the Beals Island Regional Shellfish Hatchery (H.P. 539) (L.D. 736)

An Act Relating to Theft of Services (H.P. 362) (L.D. 493)

An Act to Allow Automatic Teller Machines on the Maine Turnpike (S.P. 403) (L.D. 1047)

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

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

An Act to Implement the Aroostook Band of Micmacs Settlement Act (S.P. 152) (L.D. 272) (C. "A" S-53)  
 TABLED - May 3, 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 Monday, May 8, 1989.

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

Resolve, Authorizing the Transfer of State Interest in a Parcel of Real Estate to Arthur A. Tukey and Louise H. Tukey (H.P. 589) (L.D. 803) (C. "A" H-97)

TABLED - May 3, 1989 by Representative JOSEPH of Waterville.

PENDING - Final Passage.

On motion of Representative Gwadosky of Fairfield, retabled pending final passage and specially assigned for Monday, May 8, 1989.

**TABLED AND TODAY ASSIGNED**

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

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (3) "Ought to Pass" - Committee on State and Local Government 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)

TABLED - May 4, 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 specially assigned for Monday, May 8, 1989.

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

An Act to Provide for Division of Omitted Marital Property (H.P. 312) (L.D. 426) (H. "A" H-119)  
 TABLED - May 4, 1989 by Representative ANTHONY of South Portland.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and specially assigned for Monday, May 8, 1989.

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

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 4, 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 Monday, May 8, 1989.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Resolve, Creating a Commission to Study

Commodity Taxes on Farmers (EMERGENCY) (H.P. 1081) (L.D. 1503) (Committee on Agriculture suggested) which was tabled earlier in the day and later today assigned pending the motion of Representative Aliberti of Lewiston that L.D. 1503 be referred to the Committee on Agriculture.

On motion of Representative Swazey of Bucksport, was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Amend the Laws Relating to Notaries Public (H.P. 241) (L.D. 353) (C. "A" H-105) which was tabled earlier in the day and later today assigned pending passage to be enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 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.

The Chair laid before the House the following matter: Bill "An Act to Require Parental Consent to a Minor's Abortion" (H.P. 457) (L.D. 622) (C. "B" H-128) which was tabled earlier in the day and later today assigned pending the motion of Representative Gwadosky of Fairfield that the House reconsider its action whereby the Minority "Ought to Pass" as amended Report was accepted.

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

Representative CARTER: Mr. Speaker, may I inquire why the motion to reconsider is being made?

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

The Chair recognizes the Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Men and Women of the House: I would be happy to respond to the Representative from Winslow, Representative Carter. The motion that I made earlier to reconsider the acceptance of the Minority Report was made on behalf of myself and many others who would like an opportunity to debate this bill further.

I would request a division at this time.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Gwadosky of Fairfield that the House reconsider its action whereby the Minority "Ought to Pass" as amended Report was accepted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Carter of Winslow requested a roll call vote.

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

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

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

Representative CROWLEY: Mr. Speaker, could I pose a question to the Speaker?

My question is, is Committee Amendment "A" germane to this title?

The SPEAKER: The Chair would advise the Representative that Committee Amendment "A" is not before this body and the Chair is not in a position to make a ruling on the germaneness of Committee Amendment "A" at this time.

The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: A parliamentary inquiry, Mr. Speaker.

Since 24 hours has elapsed since the first reading took place, does the motion to reconsider require a two-thirds vote?

The SPEAKER: The Chair would advise the Representative that the 24 hours has not gone by, the motion to reconsider is in order at this time without a two-thirds vote.

The pending question before the House is the motion of Representative Gwadosky of Fairfield that the House reconsider its action whereby the Minority "Ought to Pass" as amended by Report was accepted. Those in favor will vote yes; those opposed will vote no.

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

Representative JALBERT: Mr. Speaker, I request permission to pair my vote with Representative Anthony of South Portland. If he were present and voting, he would be voting yea and I would be voting nay.

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

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

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

Representative CROWLEY: Mr. Speaker, I request permission to pair my vote with Representative Nutting of Leeds. If Representative Nutting were present and voting, he would be voting yea; I would be voting nay.

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

Representative PEDERSON: Mr. Speaker, I request permission to pair my vote with Representative Clark of Millinocket. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, I request permission to pair my vote with Representative Jacques of Waterville. If Representative Jacques were present and voting, he would be voting nay; I would be voting yea.

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

Representative MOHOLLAND: Mr. Speaker, I request permission to pair my vote with Representative Constantine of Bar Harbor. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Gwadosky of Fairfield that the House reconsider its action whereby the Minority "Ought to Pass" as amended by Report was accepted. Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 18

YEAS - Adams, Aikman, Allen, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Conley, Cote, Daggett, Donald, Dore,

Erwin, P.; Farnsworth, Foss, Foster, Garland, Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heesch, Hepburn, Hoglund, Holt, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lebowitz, Libby, Lisnik, MacBride, Macomber, Mahany, Marsano, Marsh, Marston, McGowan, McPherson, Melendy, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Norton, O'Dea, Oliver, Pendleton, Plourde, Priest, Rand, Reed, Richards, Ridley, Rolde, Rydell, Simpson, Skoglund, Small, Stevenson, Strout, B.; Swazey, Townsend, Tracy, Walker, Webster, M.; Wentworth, Whitcomb.

NAYS - Aliberti, Anderson, Bailey, Bell, Carroll, J.; Carter, Curran, Dellert, Dexter, Dipietro, Duffy, Dutremble, L.; Farnum, Farren, Hichborn, Hickey, Hussey, Hutchins, Jackson, Look, Lord, Luther, Martin, H.; McCormick, McHenry, McSweeney, Michaud, Murphy, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pineau, Pouliot, Richard, Rotondi, Ruhlin, Seavey, Sheltra, Sherburne, Smith, Stevens, A.; Strout, D.; Tamaro, Telow, Tupper.

ABSENT - Boutilier, Cashman, Gould, R. A.; Higgins, Manning, McKeen, Merrill, Pines, Stevens, P.; The Speaker.

PAIRED - Anthony, Clark, H.; Constantine, Crowley, Jacques, Jalbert, Mayo, Mills, Moholland, Nutting, Pederson, Tardy.

Yes, 80; No, 48; Absent, 10; Vacant, 1; Paired, 12; Excused, 0.

80 having voted in the affirmative and 48 in the negative with 10 being absent, 12 paired and 1 vacant, the motion to reconsider did prevail.

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

Representative CONLEY: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought to Pass" Report.

When we left this debate yesterday near the witching hour of twelve, my good chairman was holding the floor debating this particular Committee Amendment, the Majority Report. As time's winged chariot hurried near and we were getting ready to depart for lunch, there was little opportunity to debate the points which my respected chairman raised. I would like to take this opportunity to raise to this body the objections which he talked about and talk about that Committee Amendment.

Representative MacBride explained very thoroughly what the Majority Report would do in this matter. Representative Hastings talked about the rainbow of ideas and positions which came together in reaching this amendment which we now have before us. I don't think it is necessary to go through the details of what that report sought to do.

Essentially, unlike the Minority Report, which offered two stops, your parents or court, this amendment sought to deal with the very real issues that are involved here, namely to try to get some help for these young women who are in this very delicate situation.

As Representative MacBride pointed out, we put in this bill a number of avenues that this young person could go to to seek this help. That was the purpose of this amendment, that is why this amendment came about, to do something where nothing has been done, where nobody has been able to put together something that everybody could live with.

My respected chairman's first objection to this amendment was what he calls or insinuated would give everybody a roll call for each pocket. I guess I find, of all his objections, that one to be the most personal to me and the one which I believe does the most damage to the integrity of this amendment because it calls into question the principles of the



people who worked on this issue. I can suggest to this body that whenever you can get the two names of Hanley and Conley on the same Report, it is almost like bringing Northern Ireland together to solve their problems. We worked very, very hard on this, endless hours, with much pressure from many, many people. Nobody but nobody had as much pressure as members of this committee as well as our chairman and he has done very well under fire. But I have to take serious objections with his comments about a roll call for each pocket. We worked on this bill and this amendment to come up with something that would do the job, that would provide the help for the people that need it in this very delicate situation. I commend the majority for working on that. We gave way to principles, we gave way to strong beliefs, which all of us held, in order to form this agreement.

The second objection which he had was to the constitutionality. Brother Hastings, the now self-declared dean of this body in the area of law, expressed it well the other day when he said that, when a lawyer doesn't have the facts, he argues the law. By arguing the law, he hopes that you can get someone to come to your position, usually a judge. Well, in reference to this constitutionality issue, I am no judge, I am no legal scholar and I would never claim to be dean of this body but others far more knowledgeable than I have researched the amendment which is before you in reference to constitutionality.

In regard to my good chairman's concerns about the Thornburgh decision and whether or not this amendment would pass constitutional muster in light of that decision, I respectfully disagree with him and many scholars do. As this body well knows, anything we ever do is presumed to be constitutional until proven otherwise. The research in this area shows the Thornburgh decision which was really dealing with requirements that women had to meet, and they found that those requirements would actually confuse the woman and create anxiety and, therefore, would impede her ability to make her decision. Our bill does not do that. The things that we have put in there for counseling are there to help the woman to help her make a decision and so she could know about the very real health concerns which accompany any decision. Scholars, much more knowledgeable than I, have said that this position is constitutional.

Another objection which he raised is the inclusion of ordained clergy in the bill. I would suggest to this body that that also is a red herring. There is no requirement in this bill that clergy counsel people in reference to abortion, no requirement whatsoever. It is similar to the way law is in requiring abortions be performed by physicians. We don't require physicians to act against their will or their conscience. We would not require clergy to do so. The presence of clergy in there is for the benefit of the teenager who may want to consult a clergy member. The clergy member doesn't have to meet with this person if she does not want to. If it is that offensive, then it can be removed but the committee put it in there for the benefit of the teenager so this young woman could go to somebody she trusted to talk about this very, very personal and very important decision.

I guess what bothers me the most, and it was not expressed by my chairman and he has never talked about this, but it has been in the newspapers and on TV in reference to the oppositions of the Majority Report feelings about our proposal. To quote from the leader of this opposition "This is the most abortionist piece of legislation that has ever been proposed." I guess that bothers me more than anything because this committee and the majority that

worked on this issue are not abortionists. The people who worked on this felt that it was better for the mental and emotional health of this teenager, to work her problems out with a counselor, guardian or doctor rather than to have this young person go to court and stand next to criminals, abusers, people who are there maybe who lost their children because they don't know how to take care of them and be stuffed into a hallway in a corridor with screaming attorneys and their clients running all about them. Is that where these people should be? I think not. I don't think this body really wants them there. To say that this amendment is an abortionist bill is unfair. The people who worked on this worked hard at it because they put principles aside to get to the bottom of this, which is the mental and emotional health of this teenager in trying to keep that family together.

For all these reasons, Mr. Speaker, I ask that this body go along with my motion.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the Chair.

Is Amendment "A" germane to L.D. 622?

The SPEAKER: The Chair would advise the Representative from Stockton Springs, Representative Crowley, that the Committee Amendment is not before the body. The pending motion is to accept the Majority Report. If the Majority Report is accepted, then the Committee Amendment would then be before the body. Therefore, the Chair is not in a position to rule on the germaneness of Committee Amendment "A".

The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: We had a lengthy debate on this bill yesterday and serious questions were raised about the constitutionality of the Majority Report. The good gentleman from Portland, Representative Conley, has indicated that the teenagers would be affected by this parental consent bill and would have to stand next to criminals. It is my understanding that Probate Court is a family court and this is where our Minority Report would provide the avenue for the teenager, if that happens to be that young persons wish.

I still have many reservations about the Majority Report, about its constitutionality. I am not a lawyer but just the fact that seven lawyers worked on the bill does not make it constitutional. I am not infallible and I don't think anybody else is either.

Apparently we are all sincere, the committee has put a lot of work into this bill. I would suggest, if we really are sincere in trying to pass a piece of legislation that is going to achieve what we are trying to achieve, would be to table this item and declare a solemn occasion and submit Report A, the Majority Report, to the courts for a ruling.

In the meantime, we could keep both reports on the table and if Report A happens to be unconstitutional as many of us believe it is, then we can proceed with the Minority Report and then we can really accomplish something this session. I would hope that somebody from the opposite side would make a motion to table so that I can prepare the necessary request for proclaiming a solemn occasion.

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

Representative HASTINGS: Mr. Speaker, Members of the House: I will be very brief because yesterday I spoke to you probably in a too lengthy manner. Yet,

I cannot sit still and have before you a decision which is going to affect those 78 kids without you recognizing that this bill has been reviewed by others within this committee as to its constitutionality and all have agreed that it is constitutional, that the inclusion of clergy as a potential counselor does not render it invalid in any way. We should all remember, at least in a bit of gaiety, that there were 7 of us and there were only 7 on the Supreme Court so perhaps it is a tie, that is, there were 7 lawyers, although I think perhaps we have to count a few law students.

There were several points brought out by my brother yesterday, that is the chairman of our committee, which I will not repeat because Representative Conley has, in fact, gone through those rather well. The main thing I would point out is the fact of severability -- as was discussed, the committee worked many, many hours, way beyond any other bill, on this particular point. We are not a committee of 12 or a majority of 12 that always wears blue socks. We do not have the same ideas and creeds. It is, if you will, a kaleidoscope of different ideas that will work together to build a consensus that was considered the best that could be arranged under all the events that we considered for the minor.

It is not a parental consent bill, this law in its original form was not a parental consent bill. It has always been a bill to protect minors and that is what this law is about today. I suggest to each of you that it is a fair, middle ground that all of us should consider favorably and acknowledge at least that it is with earnest effort that this Majority Report has been presented to you in hopes that we may give safe haven to those young children who are, if you will, in need of help. Remember, that there are ten of us from this body on the Judiciary Committee -- we are not a judge but we are in fact your Representatives who have worked this bill to the Majority Report, which we present to you today. I urge your green light on the motion.

Representative Jalbert of Lisbon requested a roll call.

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

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

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

Representative PARADIS: Men and Women of the House: Hopefully this is the last time I have to make a speech on this subject for every one concerned including this Representative. I appreciate the comments of my committee members, the so-called Supreme Justices designee, and if they were ever to appear before my committee in that position under nomination, I think I would probably vote for their confirmation to be on the Law Court. They are both distinguished members of the bar. The last four or five years I have had an opportunity to examine other members of the bar and I think they would stand muster if that were the case.

In that light, I would like to say that when I debated another paper yesterday, mine was about three pages long; today we are trying to spell out something different and we have ten pages, seven of which deal with informed consent. If there ever was

truly a lawyers bill before this body, this is a lawyers bill.

Last year, I defended certain actions regarding Tort liability because I felt that rights of people were in danger of being abridged and compromised. I defended the legal profession. This afternoon, I can't stand up and defend the legal profession when it has used all of its resources to come up with a seven page amendment that really dances around the whole issue of parental consent and seeks to define what might be good, what might not be good, what could propose to be problems with different professional categories, namely members of the clergy and other counselors, not just members of the clergy, I want that clear, but anyone in conscience who could not participate. Maine law has always recognized that until this proposed amendment -- that we do not force a private individual to participate in a discussion or action counter to their own conscience.

What I find most interesting is that my friends this afternoon have not discussed the refuted, the important section, Section 9 on Non-Severability. In fact, no one had even mentioned the term until I just did. As I said yesterday and I would like to reiterate, I have never seen that clause presented to this body ever before on any piece of legislation that ever had the question of constitutionality raised. 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. I think that speaks pretty well to the intent of the bill, the amendment that we have. It isn't us, the Minority supporters, who are saying, let's not have anything, it is clearly stated in their amendment that if they cannot have everything in this bill, they would not chance any court to invalidate the informed consent and allow parents to have control over their minor children.

It gets even more interesting. If you have an opportunity to read the amendment, on Page 3 under Section 2a, it says "The attending physician has received and will make part of the medical record the informed written consent of the minor and one parent, guardian or adult family member." When they accuse us of watering down parental consent, there is a Niagara Falls of watering down parental consent in this section.

Further on Section 3 it states, "To ensure that the consent for an abortion is informed consent, the attending physician or the physician's designee" -- physician's designee, since the term has not been defined in the amendment, let me propose from my unbiased viewpoint what a physician's designee could be. It could be the physician's assistant or the physician's receptionist. If you don't believe that happens, ask the two young women who are minors who had abortions and testified before our committee.

We have a real professional clause here that could never get beyond our committee in any bill of any other form without raising the ire of our legal community in Maine. But you have it before you this afternoon and it says on Page 4, "No recovery may be allowed against any physician upon the grounds that the abortion was rendered without the informed consent of the minor." When I asked for clarification in the work session, it was said that that was necessary because of the Health Security Act. We would have to make that immuned in this instance because remember, it is a minor that is having that abortion performed, not an adult member of this community of the State of Maine. When physicians perform surgery on minors, we would have Tort problems and they best make sure that the guardian or the parent has consented to that

surgery. It isn't like having a tooth filled like I had filled this morning. I think it is a little bit more complicated and no one questions that.

The Health Security Act says, "A valid consent is one which is given by a person who, under all surrounding circumstances, is mentally and physically competent to give consent." The courts say that that is not possible for a minor child, male or female, and that is why they do not enjoy majority rights. You have to have a parent or guardian see to that type of procedure. We protect the minorities in that fashion under the Constitution. This clause, in all of its possibility, gives that immunity to that physician in that one instance only.

We are making this procedure so singular in action that nowhere else in our statutes do we give that type of

at they cannot operate on the toe of your daughter or abort your daughter's child without having to have the consent of the adult. I find that absolutely incredible and that clause could not stand on its own in this body or any other law or proposal and we know it but it is here this afternoon in that bill. Why is that? I will let the supporters of that amendment tell you that. I don't know why that it is so necessary except for all the possibilities that come to my mind of a young person being injured. When we say we want safe abortions, is that going to ensure safety when the physician knows that he or she is immuned?

It goes on on Page 5 as to what the physician must do -- discuss the possibility of involving the minor's parents, guardian or other adult family member and I found that word "possibility" so intriguing, not desirability but possibility. It is such a strong consent bill and they believe so strongly in having the parent involved, it is like it is the last possibility and we will slip it in before you ink the page. It mentions that several other times.

Then when we get to court if there is any problem (on Page 6) and the father or mother seeks to recover for that action, we have presumption of validity of informed consent, rebuttal. Informed consent, which is evidenced in writing containing information and statements provided in subsection 4, which is signed by the minor, "shall be presumed to be a valid informed consent. This presumption, however, may be subject to rebuttal only upon proof that the informed consent was obtained through fraud, deception or misrepresentation of material facts". The burden is now on the family, not on the doctor. They are telling you that it is too late then to even bother with it, the fact has already happened. We gave them immunity, we have told you that you can't question, you have got to prove and prove and state your case and you had better have a deep pocket because the state is not going to be representing you. We just stated in that law, you are immuned so go to it.

I guess you can feel that my reasons haven't changed. I think it is still a bad amendment as it was when it was discussed in committee.

Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed. I would request a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Paradis of Augusta that L.D. 622 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 19

YEA - Aliberti, Anderson, Bailey, Bell, Carroll, J.; Carter, Crowley, Curran, Dexter, Dipietro, Dutremble, L.; Farnum, Farren, Foss, Greenlaw, Hichborn, Hickey, Hussey, Hutchins, Jalbert, Lisnik, Look, Lord, Luther, Macomber, Martin, H.; McCormick, McGowan, McPherson, Michaud, Mitchell, Moholland, Murphy, O'Gara, Paradis, E.; Paradis, P.; Parent, Paul, Plourde, Pouliot, Richard, Ridley, Rotondi, Ruhlin, Seavey, Sheltra, Smith, Stevens, A.; Strout, B.; Strout, D.; Telow, Walker, Webster, M.;

NAY - Adams, Aikman, Allen, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Cathcart, Clark, M.; Coles, Conley, Cote, Daggett, Dellert, Donald, Dore, Duffy, Erwin, P.; Farnsworth, Foster, Garland, Graham, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Hepburn, Hoglund, Holt, Jackson, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lebowitz, Libby, MacBride, Marsano, Marsh, Marston, Mayo, McHenry, McSweeney, Melendy, Mills, Nadeau, G. G.; Nadeau, G. R.; Norton, O'Dea, Oliver, Paradis, J.; Pederson, Pendleton, Pineau, Priest, Rand, Reed, Richards, Rolde, Rydell, Sherburne, Simpson, Skoglund, Small, Stevenson, Swazey, Tammaro, Townsend, Tracy, Tupper.

ABSENT - Anthony, Boutilier, Cashman, Chonko, Clark, H.; Constantine, Gould, R. A.; Higgins, Jacques, Mahany, Manning, McKeen, Merrill, Nutting, Pines, Stevens, P.; Tardy, The Speaker.

Yes, 55; No, 77; Absent, 18; Vacant, 1; Paired, 0; Excused, 0.

55 having voted in the affirmative and 77 in the negative with 18 being absent and 1 vacant, the motion did not prevail.

The SPEAKER: The pending question now before the House is the motion of the Representative from Portland, Representative Conley, that the House accept the Majority "Ought to Pass" Report, a roll call having been ordered.

The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: I rise to answer briefly four points raised by the Representative from Augusta, Representative Paradis. First, he well knows that you may not have a veto power by parents as to whether or not a minor may have an abortion. Regardless of the wishes of those who support his position, you may not have such a right and anything put in the bill to that effect, would render the bill unconstitutional. Therefore, it has to be phrased in the way it is drafted and he well recognizes that that was discussed and had been discussed completely by the majority in their adoption of their report.

To the severability, I spoke about a rainbow or kaleidoscope of ideas that was used in pairing the majority report and that Amendment "A" -- as Representative Conley has indicated, it took representatives from one side of the field to the other. I hate to use the terms but they are so well used out in the halls outside of this House, it took those who are totally pro-choice and those totally pro-life come together to a middle ground. They were willing to do that in that committee because they fashioned a bill, which after very, very careful drafting, was determined to be constitutional and we did not want any changes in that bill. In fact, the committee had agreed that we would come to the floor

by its Majority Report and support it without amendment. That is what we have done today. We support it without amendment because it is a commonality of interest that drafted this bill and yet, that does not detract from the soundness and the philosophy that it espouses. It is a minor's protection bill and it does protect those minors in safe havens.

Next, he either misconstrues or read from an early draft of the amendment -- there is no physician's designee in the amendment before you today. If he read that, he is false. He is not reading from the current bill. Amendment "A" has no potential for a physician's designee as a counselor.

Fourth, he read from the bill and took it out of context when he mentioned that a physician would have no recovery allowed against him if an abortion was being performed because (1) when there has been valid informed consent given by a minor consistently with the regulations of standards that are prescribed by the courts in the State of Maine for physicians acting in health care matters for minors. (2) When the physician has obtained informed written consent by the minor.....

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

Representative CARTER: Mr. Speaker, a point of order?

Is the good gentleman reading from a proposed House Amendment or is he reading from Committee Amendment "A" to which the motion is before this body?

The SPEAKER: The pending question is adoption of the Majority "Ought to Pass" Report which consists only of Committee Amendment "A" and would the Representative please restrict his remarks to that?

Representative HASTINGS: Mr. Speaker, that is what I am reading from. I am using a blue copy but it is exactly like any red copy that you have before you. If you would look on 3b, which is items 1 and 2, on the pink copy that you have before you -- I do not have a pink copy but I guarantee you that it is identical to that which I refer to here.

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

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

I understand you had an Attorney General's opinion and would you care to comment on that?

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

The Chair recognizes that Representative.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: We did seek a written opinion from the Attorney General's office. The Attorney General's office indicated that they were unprepared to give any opinion on any bill regarding parental consent because of the pending argument before the Supreme Court. They did say, however, you should act on the presumption that the laws promulgated by this House or this body are constitutional. We have other opinions but that is what the Attorney General of the State of Maine told us.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Conley of Portland that the House accept the Majority "Ought to Pass" as amended Report. Those in favor of that motion will vote yes; those opposed will vote no.

The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, I would like to pair my vote with Representative Constantine of Bar Harbor. If she were present and voting, she would be voting yea; I would be voting nay.

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

Representative LUTHER: Mr. Speaker, I request permission to pair my vote with Representative Mahany of Easton. If she were present and voting, she would be voting yea; I would be voting nay.

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

Representative JALBERT: Mr. Speaker, I request permission to pair my vote with Representative Anthony of South Portland. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Rome, Representative Tracy.

Representative TRACY: Mr. Speaker, I request permission to pair my vote with Representative Nutting of Leeds. If he were present and voting, he would be voting nay; I would be voting yea.

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 he were present and voting, he would be voting nay; I would be voting yea.

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

Representative PEDERSON: Mr. Speaker, I request permission to pair my vote with Representative Clark of Millinocket. If he were present and voting, he would be voting nay; I would be voting yea.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

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

ROLL CALL NO. 20

YEA - Adams, Aikman, Allen, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Cathcart, Clark, M.; Coles, Conley, Cote, Daggett, Dellert, Donald, Dore, Erwin, P.; Farnsworth, Foster, Garland, Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Hepburn, Hoglund, Holt, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Libby, Lisnik, MacBride, Macomber, Marsano, Marsh, Marston, McPherson, McSweeney, Melendy, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Norton, O'Dea, Oliver, Paradis, J.; Pendleton, Priest, Rand, Reed, Richards, Rolde, Rydell, Simpson, Skoglund, Small, Stevens, P.; Stevenson, Swazey, Townsend, Tupper, Webster, M.; Whitcomb.

NAY - Aliberti, Anderson, Bailey, Bell, Carroll, J.; Carter, Crowley, Curran, Dexter, Dipietro, Duffy, Dutremble, L.; Farnum, Farren, Foss, Hichborn, Hickey, Hussey, Hutchins, Jackson, Lebowitz, Look, Lord, Martin, H.; McCormick, McGowan, McHenry, Michaud, Murphy, O'Gara, Paradis, E.; Paradis, P.; Parent, Paul, Pineau, Plourde, Pouliot, Richard, Ridley, Rotondi, Ruhlin, Seavey, Sheltra, Sherburne, Smith, Stevens, A.; Strout, B.; Strout, D.; Tamaro, Telow, Walker, Wentworth, The Speaker.

ABSENT - Boutillier, Cashman, Chonko, Gould, R. A.; Higgins, Manning, McKeen, Merrill, Pines.

PAIRED - Anthony, Clark, H.; Constantine, Jacques, Jalbert, Luther, Mahany, Mayo, Mills, Moholland, Nutting, Pederson, Tardy, Tracy.

Yes, 74; No, 53; Absent, 9; Vacant, 1; Paired, 14; Excused, 0.

74 having voted in the affirmative and 53 in the negative with 9 being absent, 1 vacant and 14 paired, the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-127) Report was accepted, the Bill read once.

Committee Amendment "A" (H-127) was read by the Clerk.

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

Representative CARTER: Mr. Speaker, if I am in order, pursuant to House Rule 31, I would request the Chair's ruling on germaneness.

The SPEAKER: The Chair would like to advise members that in the course of debate on this item in committee, the Chair was made aware that a request would be made. When a request is made for a ruling from the Chair, it is usually without notice. In this instance, I was aware that it was going to be made and I learned a long time ago (in this legislative body) that if you want to keep it quiet, you don't tell anyone. No one knows -- even though many have counseled as to what my decision ought to be, there is not a single person in this legislative body or outside this body that knows what my decision will be.

The Chair has determined after reviewing the amendment that, since Committee Amendment "B", the original Bill, and Committee Amendment "A" contains the provision of requiring parental consent and that Committee Amendment "A" keeps the intent of the Bill, in terms of a bypass from the parents, (in the first instance in the bill that is judicial) the committee extended the number of bypasses. Therefore, the Chair will rule that Committee Amendment "A" is germane with the purpose of the Bill and of the Amendment.

Subsequently, Committee Amendment "A" was adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Representative Nadeau of Saco, Adjourned until Monday, May 8, 1989, at nine o'clock in the morning.

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

In Senate Chamber  
Friday  
May 5, 1989

Senate called to Order by the President.

Prayer by the Honorable Margaret G. Ludwig of Aroostook.

SENATOR LUDWIG: Let us pray. Lord, as we are once again reminded of the brevity of human existence and as we grieve for the loss of one of our fellow legislators, let us remember the advice offered in the Book of Micah, where it is written: "He hath showed Thee what is good and what doth the Lord require of Thee? But to do justly and to love mercy and to walk humbly with Thy God." Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE

House Papers

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

Comes from the House referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED.

Which was referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED, in concurrence.

Resolve, Concerning Africanized Bees

H.P. 1055 L.D. 1477

Comes from the House referred to the Committee on AGRICULTURE and ORDERED PRINTED.

Which was referred to the Committee on AGRICULTURE and ORDERED PRINTED, in concurrence.

Bill "An Act to Amend the Real Estate Brokerage License Laws" (Emergency)

H.P. 1068 L.D. 1490

Resolve, to Establish the Commission to Study Real Estate Appraiser Certification and Licensing

H.P. 1069 L.D. 1491

Come from the House referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.

Which were referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Alter Cost-sharing Agreements Among Municipalities in School Administrative Districts"

H.P. 1066 L.D. 1488

Comes from the House referred to the Committee on EDUCATION and ORDERED PRINTED.

Which was referred to the Committee on EDUCATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Exempt Shooting Ranges from Noise Control Standards"

H.P. 1058 L.D. 1480

Bill "An Act to Prohibit Dumping Waste on Sebago Lake"

H.P. 1060 L.D. 1482