

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME III**

**FIRST REGULAR SESSION**  
June 15, 1989 to July 1, 1989  
Index

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
86th Legislative Day  
Monday, June 19, 1989

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

Prayer by Reverend Victor Stanley, First Baptist Church, Gardiner.

Pledge of Allegiance.

The Journal of Friday, June 16, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate  
Augusta, Maine 04333

June 16, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Education, the Governor's nomination of Virginia S. Spiller of York for appointment as a member of the State Board of Education.

Virginia S. Spiller is replacing Ralph Conant.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

Maine State Senate  
Augusta, Maine 04333

June 16, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Legal Affairs, the Governor's nomination of Richard B. Olfene of Auburn for appointment to the Maine State Liquor Commission.

Richard B. Olfene is replacing James Gibbons.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

Maine State Senate  
Augusta, Maine 04333

June 16, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Legal Affairs, the Governor's nomination of Michael V. Rizzolo of Lewiston for appointment to the Maine State Lottery Commission.

Michael V. Rizzolo is replacing Peter Gorman.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

Maine State Senate  
Augusta, Maine 04333

June 16, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Agriculture, the Governor's nomination of James D. Harrington of Winthrop for appointment to the Harness Racing Commission.

James D. Harrington is replacing Charles E. Moreshead.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

Maine State Senate  
Augusta, Maine 04333

June 16, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Education, the Governor's nomination of the following for appointments to the University of Maine Board of Trustees.

Sally G. Vamvakias of Falmouth (replacing Robert Dunfey)

Ralph Hodgkins, Jr. of Auburn (replacing Geneva Kirk)

Duane "Buzz" Fitzgerald of Bath (replacing Dr. Stewart N. Smith)

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Exempt Certain Persons from the Restoration to Service Laws" (S.P. 656) (L.D. 1764)

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 Amend the Norridgewock Water District Charter" (S.P. 655) (L.D. 1762)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had suggested reference to the Committee on Utilities.)

Under suspension of the rules and without reference to a Committee, the Bill was read twice and passed to be engrossed in concurrence.

**Ought to Pass as Amended**

Report of the Committee on Labor reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-293) on Bill "An Act to Clarify the Definition of Seasonal Workers under the Workers' Compensation Law" (S.P. 550) (L.D. 1521)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-293) as amended by Senate Amendment "A" (S-321) thereto.

Report was read and accepted, the Bill read once.

Committee Amendment "A" (S-293) was read by the Clerk.

Senate Amendment "A" (S-321) to Committee Amendment "A" (S-293) was read by the Clerk and adopted.

On motion of Representative Carter of Winslow, tabled pending adoption of Committee Amendment "A" as amended by Senate Amendment "A" thereto and later today assigned.

(At Ease)

The House was called to order by the Speaker.

**Divided Report**

**Later Today Assigned**

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-295) on Bill "An Act Relating to Notice of Injury for Purposes of Workers' Compensation and Occupational Disease Claims" (S.P. 318) (L.D. 855)

Signed:

Senators:

ESTY of Cumberland  
MATTHEWS of Kennebec

Representatives:

PINEAU of Jay  
TAMMARO of Baileyville  
RAND of Portland  
McHENRY of Madawaska  
McKEEN of Windham  
LUTHER of Mexico  
RUHLIN of Brewer

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

Signed:

Senator:

WHITMORE of Androscoggin

Representatives:

REED of Falmouth  
BUTLAND of Cumberland  
McCORMICK of Rockport

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-295)

Reports were read.

Representative Gwadosky of Fairfield moved that the House accept the Majority "Ought to Pass" Report.

On motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" Report and later today assigned.

**Non-Concurrent Matter**

Bill "An Act to Establish Occupational Health and Safety Standards for Operators of Video Display Terminals" (H.P. 481) (L.D. 661) which was passed to

be engrossed as amended by Committee Amendment "A" (H-563) in the House on June 16, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-563) as amended by Senate Amendment "A" (S-308) thereto in non-concurrence.

The House voted to Insist.

**Non-Concurrent Matter**

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1990 and June 30, 1991" (EMERGENCY) (H.P. 123) (L.D. 160) which was passed to be engrossed as amended by Committee Amendment "A" (H-577) as amended by House Amendment "B" (H-606) thereto in the House on June 16, 1989.

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on Transportation in non-concurrence.

On motion of Representative Gwadosky of Fairfield, tabled pending further consideration and later today assigned.

**Non-Concurrent Matter**

An Act to Increase the Motor Vehicle Inspection Fees (H.P. 49) (L.D. 70) (C. "A" H-470) on which the Bill and accompanying papers were indefinitely postponed in the House on June 16, 1989.

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on Transportation in non-concurrence.

The House voted to Adhere.

**Non-Concurrent Matter**

Resolve, to Establish the School Organization Study Committee (Emergency) (S.P. 534) (L.D. 1469) which was passed to be engrossed as amended by Committee Amendment "A" (S-270) as amended by House Amendment "A" (H-576) thereto in the House on June 16, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-270) as amended by House Amendment "A" (H-576) thereto and Senate Amendment "A" (S-328) in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Reform the Workers' Compensation Law to Prevent Mandatory Relocation and Family Hardship" (H.P. 675) (L.D. 924) which was passed to be engrossed as amended by Committee Amendment "A" (H-581) in the House on June 16, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-581) as amended by Senate Amendment "A" (S-327) thereto in non-concurrence.

The House voted to recede and concur.

**COMMUNICATIONS**

The following Communication:  
STATE OF MAINE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
COMMITTEE ON UTILITIES  
June 16, 1989

The Honorable John L. Martin  
Speaker of the House  
114th Legislature  
Dear Speaker Martin:

LEGISLATIVE RECORD - HOUSE, JUNE 19, 1989

We are pleased to report that all business which was placed before the Committee on Utilities during the First Regular Session of the 114th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	45
Unanimous reports	44
Leave to Withdraw	9
Ought to Pass	3
Ought Not to Pass	1
Ought to Pass as Amended	26
Ought to Pass in New Draft	0
Rereferred	2
Carryovers	3

Divided reports	1
Respectfully submitted,	
S/Stephen Bost	S/Herbert Clark
Senate Chair	House Chair
Was read and ordered placed on file.	

The following Communication:  
 STATE OF MAINE  
 ONE HUNDRED AND FOURTEENTH LEGISLATURE  
 COMMITTEE ON BUSINESS LEGISLATION  
 June 16, 1989

The Honorable John L. Martin  
 Speaker of the House  
 114th Legislature  
 Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Business Legislation during the First Regular Session of the 114th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	85
Unanimous reports	79
Leave to Withdraw	30
Ought to Pass	6
Ought Not to Pass	3
Ought to Pass as Amended	38
Ought to Pass in New Draft	0
Rereferrals	2

Divided reports	4
Carry Overs	2

Respectfully submitted,	
S/John E. Baldacci	S/Carol M. Allen
Senate Chair	House Chair
Was read and ordered placed on file.	

The following Communication:  
 STATE OF MAINE  
 ONE HUNDRED AND FOURTEENTH LEGISLATURE  
 COMMITTEE ON AGING, RETIREMENT AND VETERANS  
 June 16, 1989

The Honorable John L. Martin  
 Speaker of the House  
 114th Legislature  
 Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Aging, Retirement and Veterans during the First Regular Session of the 114th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	36
Unanimous reports	32
Leave to Withdraw	13
Ought to Pass	2
Ought Not to Pass	0
Ought to Pass as Amended	17
Ought to Pass in New Draft	0

Divided reports	2
Carry overs	2

Respectfully submitted,	
S/Bonnie L. Titcomb	S/Daniel B. Hickey
Senate Chair	House Chair
Was read and ordered placed on file.	

ORDERS

On motion of Representative ALLEN of Washington, the following Joint Resolution: (H.P. 1260) (Cosponsor: Representative CONSTANTINE of Bar Harbor)  
 JOINT RESOLUTION ENCOURAGING THE LAW ENFORCEMENT COMMUNITY TO ENFORCE MAINE LAW PROHIBITING TOBACCO SALES TO CHILDREN

WHEREAS, Maine law currently prohibits the sale and distribution of tobacco products to children under 18 years of age; and in spite of that law, over 5,000 Maine children under 18 years of age begin to smoke each year; and

WHEREAS, 90% of smokers begin smoking before 18 years of age, the legal age of purchase in Maine, and 60% percent begin before 14 years of age; and

WHEREAS, smoking-related illnesses kill over 1,800 Maine people and cause over \$250,000,000 in costs each year; and

WHEREAS, local police, state police, the Bureau of Liquor Enforcement, the Department of Inland Fisheries and Wildlife, the Attorney General, the State's district attorneys and the judiciary all have authority to enforce Maine's law prohibiting tobacco sales to children; and

WHEREAS, the business community has the responsibility to promote enforcement of the law; and

WHEREAS, stricter enforcement of the Maine Revised Statutes, Title 22, section 1579 is necessary to protect the health of Maine's children; now, therefore, be it

RESOLVED: That We, the Members of the First Regular Session of the 114th Legislature, now assembled, most respectfully encourage the leadership of the State's law enforcement community to bring the provisions of the Maine Revised Statutes, Title 22, section 1579, to the attention of its members and encourage the law enforcement and business communities to cooperate in the enforcement of this law; and be it further

RESOLVED: That a copy of this resolution be transmitted by the Secretary of State to the chief officers of the State's law enforcement agencies.

Was read and adopted and sent up for concurrence.

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Peter J. Manning of Portland be excused May 11 and 12 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Patricia M. Stevens of Bangor be excused June 9 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Richard P. Ruhlin of Brewer be excused June 12 and 13 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative George A. Townsend of Eastport be excused June 14 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Arnold Brewer, Jr., of Boothbay Harbor be excused June 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative M. Ida Luther of Mexico be excused June 16 for legislative business.

Was read and passed.

On motion of Representative McKEEN of Windham, the following Joint Resolution: (H.P. 1265) (Cosponsors: President PRAY of Penobscot, Speaker MARTIN of Eagle Lake, Representative MELENDY of Rockland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE CONGRESS OF THE UNITED STATES, AND THE INTERSTATE COMMERCE COMMISSION TO RESTORE PASSENGER RAIL SERVICE TO THE STATE OF MAINE**

WE, your Memorialists, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the President of the United States and Congress, as follows:

WHEREAS, the restoration of passenger rail service between the State of Maine and other states in the northeastern United States is in the economic interest of the State of Maine; and

WHEREAS, the resumption of this service will help alleviate automobile traffic in the northeast corridor of the nation and will also reduce automobile emissions and resultant air pollution; and

WHEREAS, increased passenger rail traffic will relieve pressure on Maine's highways and bridges, thereby promoting energy conservation and reducing the consumption of fossil fuels; and

WHEREAS, there are currently studies conducted on improving passenger rail service within the State, and the development of alternate transportation systems is in the long-range planning interest of the State of Maine; and

WHEREAS, AMTRAK or private rail carriers may be able to provide this service between the State of Maine and other states in the region; and

WHEREAS, the increased utilization of train travel will improve the economic, cultural and social well-being of the State; now, therefore, be it

RESOLVED: That We, your Memorialists, recommend and urge the President of the United States, the Congress and the Interstate Commerce Commission to strive to enact measures to restore passenger rail service to the State of Maine; and be it further

RESOLVED: That duly authenticated copies of this Memorial be submitted by the Secretary of State to the Honorable George H. W. Bush, the President of the United States, the President of the Senate, the Speaker of the House of Representatives and to each Member of the Maine Congressional Delegation.

Was read and adopted and sent up for concurrence.

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

**ORDERS**

On motion of Representative SKOGLUND of St. George, the following Joint Resolution: (H.P. 1268) (Cosponsor: Senator BRAWN of Knox)

**JOINT RESOLUTION IN HONOR OF THE 200TH ANNIVERSARY OF THE FIRST BAPTIST CHURCH OF ST. GEORGE**

WHEREAS, the foundation of the First Baptist Church of St. George was laid by the missionary efforts of Elder Isaac Case in 1784; and

WHEREAS, the First Baptist Church was formally organized in 1789 to provide spiritual guidance and sustenance to the burgeoning community it faithfully served; and

WHEREAS, the First Baptist Church of St. George has been the parent church of other churches in the area; and

WHEREAS, the First Baptist Church is the oldest religious organization in Knox County; and

WHEREAS, the First Baptist Church continues to provide sanctuary support and fellowship to all who seek it; and

WHEREAS, the First Baptist Church has promoted traditional Christian values for 2 centuries and continues to be a positive influence in the community; now, therefore, be it

RESOLVED: That We, the Members of the Members of the One Hundred and Fourteenth Legislature now assembled in the First Regular Session, recognize and commemorate the First Baptist Church of St. George on the occasion of its 200th anniversary; and be it further

RESOLVED: That suitable copies of this Joint Resolution, duly authenticated by the Secretary of State, be transmitted to the First Baptist Church of St. George.

Was read and adopted and sent up for concurrence.

**REPORTS OF COMMITTEES**

**Ought to Pass in New Draft/New Title**

Representative SKOGLUND from the Committee on Marine Resources on Bill "An Act Concerning the Disposal of Abandoned Watercraft" (H.P. 587) (L.D. 791) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Requiring the Bureau of Public Lands to Study the Best Method and Cost of Removing Abandoned Watercraft in the Coastal Waters of the State" (EMERGENCY) (H.P. 1267) (L.D. 1763)

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

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

**Ought to Pass Pursuant to Joint Order (H.P. 9)**

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1989 (EMERGENCY) (H.P. 1264) (L.D. 1760) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 9)

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

**Divided Report**

**Later Today Assigned**

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-611) on Bill "An Act to Improve the Delivery of Higher Education Finances in Maine" (EMERGENCY) (H.P. 837) (L.D. 1169)

Signed:

Senators:

ESTES of York

BOST of Penobscot

Representatives:

CROWLEY of Stockton Springs

HANDY of Lewiston

OLIVER of Portland

O'DEA of Orono

PARADIS Of Frenchville

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-612) on same Bill.

Signed:

Senator:

GILL of Cumberland

Representatives:

SMALL of Bath

O'GARA of Westbrook

AULT of Wayne

NORTON of Winthrop

KILKELLY of Wiscasset

Reports were read.

Representative Crowley of Stockton Springs moved that the House accept the Majority "Ought to Pass" Report.

On motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" Report and later today assigned.

**CONSENT CALENDAR  
First Day**

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

(S.P. 348) (L.D. 920) Bill "An Act to Implement Recommendations Proposed by the Blue Ribbon Commission on the Regulation of Health Care Expenditures" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-326)

(H.P. 895) (L.D. 1239) Bill "An Act to Amend and Update Laws Pertaining to Inland Fisheries and Wildlife" (EMERGENCY) Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-615)

(H.P. 1235) (L.D. 1727) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$19,110,600 for the Maine Vocational-Technical Institute System" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-616)

(S.P. 469) (L.D. 1266) Bill "An Act to Amend Certain Provisions of the Maine Low-Level Radioactive Waste Authority Act" (EMERGENCY) Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-289)

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

**ENACTOR  
Emergency Measure  
Later Today Assigned**

An Act Relating to Public Fish Piers, Airports and Other Transportation Facilities (S.P. 652) (L.D. 1749)

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

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

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

**ENACTOR  
Emergency Measure  
(Reconsidered)**

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government and Inland Fisheries and Wildlife Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1990 and June 30, 1991, and Making Supplemental Allocations Necessary to the Proper Operations of State Government (H.P. 514) (L.D. 694) (C. "A" H-556)

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

On motion of Representative Jacques of Waterville, under suspension of the rules, the House

reconsidered its action whereby L.D. 694 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-556) was adopted.

The same Representative offered House Amendment "A" (H-600) to Committee Amendment "A" (H-556) and moved its adoption.

House Amendment "A" to Committee Amendment "A" 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.

(At Ease)

The House was called to order by the Speaker.

**ORDERS OF THE DAY  
UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment on Friday, June 16, 1989 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:

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-388) - Minority (4) "Ought to Pass" as amended by Committee Amendment "B" (H-389) - Committee on Taxation on Bill "An Act to Provide Comprehensive Property Tax Relief" (H.P. 776) (L.D. 1088)

TABLED - June 15, 1989 (Till Later Today) by Representative CASHMAN of Old Town.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-388) Report.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Cashman of Old Town that the House accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-388) Report and later today assigned.

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

Bill "An Act to Clarify the Farmland Adjacency Law" (H.P. 697) (L.D. 949)

TABLED - June 15, 1989 (Till Later Today) by Representative WEBSTER of Cape Elizabeth.

PENDING - Adoption of House Amendment "A" (H-559) to Committee Amendment "A" (H-549).

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: I move that House Amendment "A" to Committee Amendment "A" be indefinitely postponed.

The concept was simple, keep new residential construction 150 feet from existing apple orchards. Your open bedroom window and an apple orchard being sprayed with captan are simply not compatible land uses. If the land allowed, new construction should be set back a minimum of 150 feet. If that created a hardship, there were ample provisions for securing a variance.

This amendment repeals the 150 foot setback between agricultural land and adjacent construction that is in existing statute. This goes back a long way. This law was passed by the 113th Legislature. We held a public hearing in June of 1987. We held the bill over to the second session and a committee worked through the summer. We held a second public hearing in January of 1988 and worked the bill regularly for three more months. This was supposed to promote harmony but still the bureaucrats screwed it up. Land was registered that shouldn't have been, pastureland, woodland, tree growth property, anything and everything that the farmer owned, he registered. The intent was that only the land upon which the pesticides were used and upon which fruits and vegetables and forage crops were grown. One farmer even kept a two acre house lot, sold his farm, the new owner registered and the farmer found that his lot was less than desirable for building his retirement home on.

This is just one of the many horror stories that came back to the committee after we passed this law that we worked so hard on. And, as you may suspect, there were several bills dealing with the issue introduced this year. Nearly all of the complaints regarding this law were created by farmland registrations that were not legitimate, were not even envisioned by all those who worked on the original legislation.

The unanimous committee report that this amendment intends to paunch dealt with each and every one of these concerns that came to the Agriculture Committee. If we erred, we did it by making things too difficultly for the farmer.

You have before you, it has been there several days, a report from the Agriculture Committee on just what we did to tighten this statute up. I am sure there are others on the Committee who will elaborate so I won't.

What we are talking about here is the survival of the farmer. Pesticides are an economic fact of life. I can spend hours telling you about the efforts to reduce or eliminate their use. Programs in integrated pest management, low input sustainable agriculture, developments in biotechnology, but that is not the issue. We pay lip service to farmland preservation. That is not the issue. To a farm boy like me, when you preserve something, you can it, freeze it, salt it or pickle it. You have never heard me talk about farmland preservation. You can't have farmland without farmers and that is what this legislation protects, existing farmers from urban encroachment.

I urge you to support my motion to indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to urge you to oppose the motion to indefinitely postpone. I would like to tell you why. It is not that I am opposed to farmers. Certainly farmers have given us one of the basic necessities we all must have and given it to us in great abundance. They have given us the sustenance of life that keeps us all going. Without the farmer and without spraying, we obviously wouldn't have the number of people that we have on the face of the earth today. I have the utmost respect for farmers. I have been a small farmer myself and I still own 30 acres of farmland. But, there is another thing that we are in great danger of losing, something to me that stands above everything else, something that many thousands of men and women in this nation have fought and died for and that is

the right of ownership. Many, many years ago, 200 or so, our founding fathers wrote in the Declaration of Independence that all men are created equal, that they are created with certain inalienable rights. Now, if you understand the meaning of inalienable, you will know that it means rights which cannot be taken away. We are moving further and further away from the founding fathers' concepts of rights. The ownership of land implies the right to use that land, to use it as you, the owner, sees fit, as long as you do not deliberately harm somebody else.

Now, when you tell me that I have no right to use my land, you are taking my wealth away from me. God knows, the only wealth I have and my family has is in our land, certainly it isn't in our bank account because if it were, it would be kind of lost.

What I am attempting to do with this amendment is to preserve the right of ownership. If indeed, it is a problem, if indeed farmers do need protection, then it is up to all the people of the State of Maine to offer that protection. If we are going to take one individual's land for the protection of another individual, then we certainly should be compensating that individual whose land we are taking.

So, I hope you realize that I am not anti-farming, I have tremendous respect -- farmers work seven days a week. One of my best friends is a farmer, the gentleman from Waterboro, Representative Lord. There is no person that I have greater respect for. I realize that farmers need help but let's not give them help by taking away another human beings rights.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: Compromise has always been the basis of support in this legislature. Representative Gould appeared before our committee and his concern was directed mostly toward addressing tree growth and tree management. We addressed that in the bill. Certainly the right of ownership should be preserved but along with it comes the right of responsibility. You will find that this bill is intended to address the need to spray by the farmers to provide that products for us that will be safe and also be abundant.

There is excess liability involved in this if the amendment proposed does away with the setback. You will find an increase attempt to collect against the liability of the farmer and the need to spray. I initially (and insisted over and over again) to a degree of fairness. I initiated the leadership that I could to have the members of that committee compromise. Certainly, I felt it was an injustice to have the compromise in favor, strictly, against the landowner. I felt the farmer ought to give. It shouldn't be strictly, you give up 150 feet and I give up nothing. So, in working this bill for months and another member of the committee also seemed to share my opinion and it seemed to be just an opinion that he had and I had at the time, but the compromise said this, you give up 50 feet now (that was originally given to you in the bill) and we in turn will put in there the crop line, the farmers responsibility begins at the end of the crop line.

Obviously, some crops can be put into the ground closer than other crops, but that seemed to be an acceptable compromise. The farmer now for the first time is giving along with the owner of the property. I think the major reason why I felt a compromise was necessary because I put the need to control the use of necessary pesticides above any other thing in this bill. I urge you to defeat the amendment.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I rise today in support of Representative Gould's amendment to the Farmland Adjacency Law which would repeal the buffer zone. I applaud the Agriculture Committee for its work on this law that was passed last session. The only part of the Committee bill that I still have serious concerns about is the buffer zone which was 150 feet but as Representative Aliberti has told you is now suggested to be 100 feet from the productive line and not the boundary line.

Since I believe as citizens of Maine, it is important for us to cooperate with our farmers. I had a discussion with a blueberry farmer in my district who has not presently registered his land (I will point out), I asked him how many times he might spray in a season that would cause real concern? His reply was, probably two times. He also made me aware that the Blueberry Commission instituted a hot line to radios to inform areas when this will take place.

Now, if I were a homeowner next to a registered farmland, I would appreciate knowing when this spraying was going to occur. In fact, I would be willing to participate in the telephone chain. Once I had received a call, I would pass the message to the next abutter.

I understand the Blueberry Commission is discussing the possibilities of helping farmers to implement just such a plan. I realize there are a lot of other crops involved in this and I am speaking about just one in this case. But, as a homeowner, I certainly would prefer this approach much more than I would having restrictions placed on my property. I consider such restrictions an infringement on my property rights. I encourage you to vote for Representative Gould's amendment and vote against the indefinite postponement motion.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: If there was ever a mistake in title for a piece of legislation, it would be this one -- it would be the "harmony" bill because this certainly has not created harmony. All of us who have worked on this legislation now have come to understand that.

I think what is important for us to understand as a legislature is that this is not necessarily a protect farmers or protect farmland bill. It is a consumer bill, it is a food safety bill, it is a piece of legislation intended to use a little bit of foresight in planning for development and in planning for future land use. This legislature has been probably the most prominent in the nation in its efforts to regulate the use of pesticides.

Those of us in the agricultural community can well attest that at times the agricultural community has been resistant. But they have come to understand that for agriculture to exist, particularly in an urbanizing area of the State of Maine, that the use of pesticides will be questioned, will be challenged and consumers are no longer willing to accept just the carte blanche application of pesticides in their immediate surroundings.

I think this legislation is a logical extension of those concerns that everyone has, including those who use pesticides. I don't think there is a person in the agricultural community who would not prefer that there were no pesticides at all. It is a huge expenditure of funds, it is dangerous. Pesticides are not a product that anyone takes lightly. However, given economic realities of today's world,

they are necessary. We certainly hope that research at the University of Maine at the Department of Agriculture and other places will be able to find ways of avoiding the pesticide trap. I can tell you so far, they are not successful.

What this legislation is is an admission that pesticides may not be safe to be around. I will say that point blank. We, as a society, do not know how to grow enough food to feed our population without pesticides. If you think that putting farmers out of business in Maine or the United States by regulation is going to solve the problem, I could tell you horror stories about the foods that we import that use pesticides that we banned generations ago in this state and this nation. We will go downstairs in the coffee shop or the cafeteria or anywhere else and purchase imported foods that contain frightful products. This legislature has addressed that issue and will continue to address that issue.

The point before us today is how do we co-exist. How do the people of Maine, who I think appreciate the open space and the farmland and the fact that we do still continue to produce some of what we need to eat, how does farmland co-exist with urban concerns? That was the intent, that was why this legislation was brought before us by a concerned apple grower from the Representative from Leeds' district. So, as the Representative from Palmyra, Representative Tardy has outlined, the Agriculture Committee has spent two years trying to find a method which is not completely satisfactory from both points of view, from the farmer and from the adjoining landowner to co-exist.

This bill is a compromise in every sense of the word. This bill requires that those who register their land go through any number of checks to make sure (1) that the land is truly an agriculture production and production that uses pesticides and nothing else -- no more of the registration of pasture and so forth. It requires that no lot be rendered unbuildable. Although that was the intent of the initial legislation, I don't think that was clearly understood because the legislature has since enacted a more generous variance ordinance outside of this law. Also stated in this bill, anyone who has a lot that may potentially be rendered unbuildable by this piece of legislation, can be granted an appeal, will be granted an appeal. So, all this bill does is require, where possible in new development, that you put the home a hundred feet away from an area that will be potentially sprayed. This does not allow the person using pesticides to get away with anything. If anything, the farmer or the pesticide user will come under more scrutiny. If there is any instance of drift on the abutting landowner's property, that person should go to the Pesticide Control Board and be protected by the full weight of the law. I would encourage that. This is not an attempt to allow farmers to use pesticides unthoughtfully or unsafely.

This simply says, where the opportunity presents itself, to set the residences away from the areas to be sprayed. It is logical legislation, safe legislation, it is planning for coexistence between our agricultural and our open spaces and the urbanizing needs of the people of the State of Maine. I urge support of the motion before us, which is indefinite postponement of the amendment and I urge support of the hard-fought committee compromise.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: I rise because I was one of those many people who introduced an amendment this year to repeal the Harmony Law. All of you received calls last year after the Agriculture Committee sent

out unanimously the original Adjacent Farmland Law. All of you that were here realized the problems the state had with that original law. I gave this to the committee, they made it much, much better. They had nowhere to go but up. It is still a flawed law. They say it is a compromise law but the person who is doing all the giving is the abutter to the farmland.

I will say, like Representative Gould, I respect the farmer, I appreciate all that they provide for our society so it can function as it does, but the right of property ownership is also a long-standing value in our society. That is not to be dismissed lightly.

Now you hear there is a compromise -- the farmer is giving up something. He can count the measurement of a hundred feet, not from the boundary but from his crop line. Ladies and gentlemen, what is a crop line? It is as far to the abutting land as they choose to plant the crop. If they want to leave a 50 foot unplanted land, they can. If they have a hedgerow or locked fence, fine, they can measure that. However, it is all up to the farmer. The farmer can plant, if he chooses, right up to the abutter. Then that abutter is prohibited from all those activities for a hundred feet from his line. Why in the bill, I ask you, didn't they say, yes, it is an important goal, private property is an important value -- why don't we do 50-50? Why don't we take 50 feet from the farmer and 50 feet from the abutter? No, that may occur, depending upon where the crop is on that line but it also may not occur. It depends upon what the farmer chooses to do. It is the farmer's choice.

Furthermore, the fundamental flaw of this bill is that the state says it is an important value for serving farmlands. Protection from pesticides is an important value -- yes it is, however, you know who decides whether this is going to be important or not for that particular farmland? Not the state, not you and me, -- no, the farmer who abuts. He can register his land or not register his land. Is it an important value or isn't it? Do we want to protect from pesticides or don't we? Do we want to prohibit buildings from a 100 feet of that line or not? Should we make the decision? Yes, we should. But in this bill, do you know who makes the decision? The farmer, the farmer gets to decide whether or not he wants his neighbor to build within a hundred feet. He decides by choosing to register or not choosing to register.

People in this body are saying here today -- farmers out there, we are trusting you. You make the decision.

I am not saying that is necessarily wrong but what I am saying is that it is our job to do that. We are saying to them -- it is important but you can decide whether or not to do it. We want to protect from pesticides but we are going to let you decide on that.

I think the state should bite the bullet. We should say, you can't do it because it is dangerous. Pesticides drift, we need to preserve farmland -- important values but we shouldn't leave it to the discretion of the individual farmer, which is exactly what this bill does. It lets it do that and it lets it measure from the crop line, which the farmer is free to determine. Perhaps crop lines move, they move from year to year. Are we going to have a surveyor out there surveying where the crop line is this year when he plants his corn and where it is next year when he plants potatoes? Are we going to have a man out there with red tape measuring off the hundred feet -- is it going to be moved this year or next year?

I ask that this body support Representative Gould's amendment which eliminates the buffer. To me, I think I would have been willing if I had been Representative Gould, I would have done a 50-50, kept the buffer and let equal shares for each party to bear. It is not fair for all the giving and compromising to be done by the abutter landowner.

The SPEAKER: The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, Ladies and Gentlemen of the House: I have to disagree with the good Representative from Bangor, Representative Stevens on some of her comments. The farmer is not the only one that decides whether he will register this or not. If he decides that he is going to register it, it is required to have a review by local application to the Local Soil and Water District to ensure that only agricultural cropland is registered. It requires that they participate in the Farm and Open Space Tax Law which has a very severe penalty for withdrawal. Nobody is going to go down there and register their farmland under this and then pull out a year after if they are not serious about farming because there is a severe penalty. It is more clearly defined that only productive croplands can be registered.

Now what does this allow for the protection of the abutter's rights. It requires a preregistration notification, it has a grandfathering clause. When you buy your land from a real estate agent, he will take you out on a hill somewhere and show you this beautiful land overlooking an apple orchard or looking over this farmland with potato crops -- he doesn't tell you this is going to be sprayed with pesticides, he doesn't tell you a thing. All he is interested in is selling that piece of land to you for a big price.

There is a lot of land being bought up along the coast, along the lakes, along the ponds and you have to have a setback -- has anybody said anything about that? What can you build on that setback, that 150 feet? Not one blessed thing.

This does not prevent all uses within the 150 feet setback area, you are permitted to build garages, barns, warehouses, lawns, septic areas, driveways, swimming pools, a whole multitude of things. What can you do on that 150 feet that you buy on the coast that you are paying a big price for? It requires that new residents, school buildings, commercial establishments, dispensing food, camping and picnic areas -- you would want to be set back so you didn't get the drift of these pesticides of 150 feet.

I think the committee has come to a good compromise and I would ask you to support the motion of Representative Tardy.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I would agree with the first Representative who spoke, Representative Tardy of Palmyra that yes, the committee did need to really tighten up this law because the people who were administering it, the bureaucrats -- it ended up not being anywhere near what the intent of the legislation that was passed.

I think you have to remember that it is not a cake and eat it too issue. On one side of a crop line, you have an abutter who may have just purchased that land to build a home and live and on the other side of the line, you have a farmer who is not living on the land, he is attempting to earn his living off that land. So where did this all start? I am holding a brief synopsis of the Board of Pesticides rules that every farmer in Maine has to adhere to.

These rules are the strictest rules that we have been able to find in the United States to regulate what the farmer can and cannot do. These rules were adopted over three years ago. Frankly, five years ago, if you moved into the country, in some cases, you look your own chances. That is not the case today.

In one section concerning what is called sensitive areas or sensitive zones -- the Board of Pesticide Control in Maine has granted every home in Maine a sensitive area that extends all around that residential building (and I am quoting now) "together with any land which is part of the same property and is within 100 feet of such building." Remember now, this is the first thing that happened regarding this issue, every home in Maine was granted a sensitivity area around it of 100 feet where nothing can enter. In the handout that you received from the Department of Agriculture, prepared by the Department of Agriculture from the committee, it states "In order for the farmer to comply with this law, the farmer must back up 100 feet on his own land to assure that nothing enters the 100 foot sensitivity area around the home." One hundred feet both ways. This is not a one-sided unanimous committee compromise.

I think we ought to look who is for this bill and who is against it. I know two groups in Maine that I think everybody would agree do care about the environment and have always been for this bill, one is the Maine Audubon Society and the other is the Natural Resources Council of Maine. We may or may not agree with them on every issue but they are in favor of this law and this unanimous committee compromise. I know the Sportman's Alliance of Maine, the Farm Bureau, the Department of Agriculture are all in favor of this, environmental and agricultural groups.

The Maine Realtors Association has always been opposed to this law but in talking with several realtors in my district who deal in land in rural Maine are in favor of this law. They feel, in the long run, it is better for the person who abuts to have the 100 feet sensitivity area around his home and to have the home backed up 100 feet so that the countless complaints that are arising in Maine between people moving out into farmland, building -- in my district right now, I have three houses being built 15 feet from the farmer's crop and I would guarantee you one thing, they have years of conflict ahead of them. I, too, would urge rejection of this amendment and support the motion to indefinitely postpone made by Representative Tardy so we may go on to accept the unanimous committee report.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: The issue here today is not to protect the farmer but whether we want to assure that this state and this nation of ours can continue to feed its people. If the time ever comes when this state or this nation cannot feed the people, we will have a very serious problem on our hands, as many other countries have.

Back in 1970 in York County, we had 110 dairy farmers. In 1987, we had 25 left, five of those were in my town. I have four left there today. The farmer who had to pick up and leave was a Vietnam veteran who was injured during the war. He came home, went out in the country and bought large acreage and he started his dairy farm. He had a herd of 150 cattle. Developers came in then sold the land around him, people moved in from out of state and every time that farmer went out with his manure spreader to go from one field to another, some of the

land that he had leased and other parts he owned, they called the police if a drop of manure went on the road. He was harassed to the point where he said, "I can no longer stand it." He went down to New York state and bought a big farm and transferred his herd of 150 down there by truck. David sold his land to a developer and I don't blame him. If developers want to take over this state -- as he said, "I cannot afford to fight them, I can't stand the harassment."

Therefore, it is very necessary that we support the Farmland Adjacency Law. I hope you will support Representative Tardy's motion today to indefinitely postpone this amendment. The future of our country as far as feeding our people may depend on laws such as this.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Men and Women of the House: I have a point that I would like to make ladies and gentlemen of the House. What Representative Murphy says is exactly true and that is exactly why I want you to support my amendment to change this. No one should be harassed in using their property as they see fit. No farmer should be harassed and no property owner should be harassed.

I would like to ask for a roll call when the vote is taken, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Dexter, Representative Sherburne.

Representative SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: We have heard some good comments here today about this law, about this amendment. Representative Nutting has given a good explanation of the homeowners' rights. Any home that is near a farm has a 100 feet sensitivity zone around it -- why is it any different for that 100 foot zone to be on the homeowners property or the farmers property? If that home had been built within 10 to 15 feet of the farmer, it would still have a hundred foot zone which would all come off of the farmer. This bill does not take the farmer off the hook for being responsible, he still has to be very, very careful how he sprays. He has to be careful of that buffer zone to make sure that no pesticides go on to the sensitivity area around that home and that 100 foot buffer zone now, which was 150 feet and been reduced to 100, is from the crop line not the boundary line.

I don't blame Representative Gould one bit for putting in this amendment because he had two constituents, at least two, who had differences of opinion on what this law was doing. I happen to know both of those constituents, one of them I grew up with, went to school with, have known this constituent all my life. The other one I have known for several years and I think mainly it is a misunderstanding. Maybe poor public relations (we could call it) as to how the notices were given and what the purpose of the bill was. This new version of the bill makes it harder to register land, it has to be under the supervision of the Soil and Water District, it has to be registered as farm and open space land which has a lot of restrictions and very severe penalties if it is removed from that so farmers aren't going to do it unless they are really serious about farming. This new version, I believe, eliminates some of the land that was registered irresponsibly or maybe even illegally.

As far as Representative Gould's amendment is concerned, I think it was put in because of a conflict in his district. I am sure he is doing his duty by trying to get this amendment in. If a little better neighborly public relations had been used in

that particular instance, I think we would have had a lot less problems. Maybe we would have had harmony but if we hadn't had harmony, there would have been a better understanding anyway so I hope that you will go along with Representative Tardy's motion and get rid of this amendment.

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Donald.

Representative DONALD: Mr. Speaker, Men and Women of the House: I rise to speak on this. I support Representative Gould's position and his amendment.

It comes down, in my opinion, to as a taking of someone else's values. That property that abuts the farmland. I think the committee has done a perfect job in putting together the changes from the law that was passed in the 113th but there is a problem, I feel, in this 100 or 150 feet setback question. As I said, it comes down to a question of taking someone else's value. There have been abuses, I know that most farmers are responsible but there have been abuses of this law previously. I think it comes down to a matter of local control. I think it is a matter of zoning and I think what works perhaps in Aroostook County doesn't work in York County.

Zoning is something that is voted on locally and I think therein is where (if there is a need for this sort of thing) perhaps it should be done, not here in Augusta where we dictate a specific figure, specific number, that is to be in effect all over the state. I think that is wrong. Even though there is a provision in the law that someone can get a variance, people back home who are not familiar with real estate terms or legislative terms, the only thing they know back home is that somehow their property has been encumbered by 100 or 150 feet. A lot of people don't understand variances or what a variance is. They don't know what a special exception is, they don't know whether it is easy or whether it is difficult to get one. This may stop someone for years thinking that their land is encumbered and they simply can't do anything with it. I think what you are doing is taking away value from the abutter and this should not be done. When you buy a piece of land, you want to know that you can enjoy that parcel and not have it encumbered by somebody else. The decision making process on this is entirely with the farmer. I don't think anyone should be held hostage as to whether or not a farmer is going to register his land or not, it is entirely up to him. It is just not right.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, believe in the rights of ownership. It is one of those basic American principles. On the other hand, so is the concept of the common good one of those basic American principles. The concept of the common good does take precedence to some extent over that of ownership. When you have a situation that demands some reflection on the common good, one has a need to compromise. I think we have such a situation in this instance and we have compromised. We have spent many hours in the Committee on Agriculture and worked through the original piece of legislation, the law, that preceded this particular piece of legislation, time and time again. Time and time again, we had to compromise.

One thing perhaps that has not yet been mentioned this morning and should be emphasized is that we came up with a very thorough appeal process as well as a very thorough review process for registering farmland and no lot is to be unbuildable, ladies and

gentlemen. Waivers are provided, nobody is to be robbed of their land. This is a tight piece of legislation, it is a responsible piece of legislation, it is a piece of legislation that takes everyone's interest into account and I urge you to support the motion of Representative Tardy and indefinitely postpone this House Amendment.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Bell.

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: The working farm setback, I believe, is a very good compromise. Something that has not been mentioned here this morning is that this setback is for working farms where products are grown. Any development that takes place along the farm that is what you call a normal wooded area like there is many of, there is no setback in those areas so I think everyone should understand that the setback is for working farms of plants that are being grown yearly. In those other areas, there is no setback and I urge you to support the motion to indefinitely postpone.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: I concur that there are often limitations put on private property rights for the common good as Representative Mahany has told us. I concur. However, those restrictions on private property rights are placed on that property by the state for the common good and common welfare. This bill does not overcome the fundamental problem in that it is still up to the farmer to register his property or not. That farmer is making the decision but it is good for the state, good for the common welfare. I submit to you that it is an improper decision for the farmer to be making. If it is, indeed, for the common good, for the common welfare, for the common safety, then it should be made by the state and should not be made individually by the farmer.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: Very briefly, I rise to support the amendment of the good Representative from Greenville. One of the arguments that I have not heard in the debate this morning but seems to me very apparent that the only reason that this buffer zone seems to have any credibility or any advantage is because it is cloaked in the idea that the farmers have to have this, that it is absolutely necessary for them to grow their crops and bring them to market for us. I don't think we could use this argument if we used another industry or another group of business people -- for instance, let's say paper companies and their by-products of papermaking. Would we be able to debate in the same argument this morning and say if a paper company were to spread sludge over a field that the owner of the adjacent land would have to create a safety zone, a buffer zone, and not be able to do anything with that land within a hundred feet of that sludge? I think the argument would be reversed. A careful environmentalist in this chamber would be saying, it is the obligation of the paper company or whatever industry that is using that land to police itself and to have a buffer zone to protect the property rights, safety and environmental rights of the people who own the surrounding lands. To put the burden of that industry on the backs of someone else, as the Representative from Greenville has indicated, seems to me to be a little unfair, if not uncharacteristic of our American laws. How can we justify imposing a burden on someone else's property

in order to protect the business of another group of people? There is nothing wrong in growing crops, there is no problem with the amount of food that we produce here in this state. We export food, we export food from this country all across the world -- why are we creating an unfair burden on our private property owners in order to export food to feed people that we don't know? I don't think it is right.

I would like to ask a question to anyone on the committee who would care to answer as to how they agreed to 100 feet? Last year, it was a 150 feet, this year is 100 feet -- what is so environmentally important that they can arbitrarily set 100 feet as a safety zone around that crop? If we are talking about pesticide use or spraying, aren't we also having to consider wind conditions, drainage conditions, the effect of the soil and its percolation, the well water around it -- is there a stream, is it downhill, on the side of the hill, all those types of questions from this city legislator comes to mind when I think about this bill and as I listen to complaints about it from people who own land and thought they could use their land within the local control that they have to have from their town councils and city councils, their local zoning controls now is completely warped -- so if anyone can answer that question, I would love to hear an answer.

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

The Chair recognizes the Representative from Dexter. Representative Sherburne.

Representative SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to try and give a simple answer to the good Representative from Augusta's question. Maybe somebody else can elaborate on it more but around every home that exists, there is a 100 foot sensitive area which cannot be polluted, or whatever you want to call it, with spray. That is around existing homes. If that home is within 15 feet of the boundary, then the one who is applying the spray has got to honor that 100 feet of existing sensitive zone. What this bill is trying to do is trying to keep new homes, new developments, back that 100 feet so that we would not be creating new sensitive zones on the farmers land.

I hope that answers the question.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I just want to add very briefly just a little bit to what the good Representative from Dexter said.

Representative Paradis asked the question about sludge. In the area of pesticides, the State of Maine, this legislature, authorized the formation of the Board of Pesticide Control and that board, through state action, created a sensitivity zone around every house. That has not even been contemplated being done in the area of sludge. Maybe it should but it hasn't been. Last year, Representative Paradis attempted to raise several legal questions concerning this law. We backed the law up and asked for a written opinion from the Attorney General's Office and they came down on the side clearly that this is not an unconstitutional law at all. We did not proceed with this law until we had that written legal opinion.

I know there have been numerous cases in the past where legal written opinions from the AG's office have been challenged in the courts. I do not know of one written opinion by the AG's office in the last three or four years that have been overturned or disagreed with by our court system.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: Nobody mentioned that this was a unanimous report from the committee. I think that automatically means something to this body. But, it means more than what it ordinarily means to this body because to get that unanimous report it was right up until the last minute I was an adversary along the lines, time and time again, on the degree and the point of fairness, not on the pesticides and not on the food production, but on the degree of fairness. We passed a bill, it didn't seem to address the fairness that we thought it should address. We altered the bill right up until the last moment. I needed the input of the two respected legislators that opposed this on the floor of the House today. I needed their input badly and the place for that input certainly would have been welcomed before the Committee. I respect them highly and I could have addressed it differently if I had had the input and the support of those that today are opposing that bill on the floor of this House.

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 Tardy of Palmyra, that House Amendment "A" (H-559) to Committee Amendment "A" (H-549) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 106

YEA - Adams, Aikman, Aliberti, Allen, Anderson, Anthony, Ault, Bailey, Bell, Boutilier, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Curran, Daggett, Dellert, Dipietro, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Farren, Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holt, Hussey, Hutchins, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Lawrence, Lebowitz, Lisnik, Lord, Luther, MacBride, Mahany, Manning, Marsh, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McPherson, McSweeney, Melendy, Merrill, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Gara, Oliver, Paradis, E.; Paradis, J.; Parent, Paul, Pederson, Pendleton, Pineau, Pines, Plourde, Pouliot, Priest, Rand, Richard, Richards, Ridley, Rolde, Rotondi, Rydell, Seavey, Sherburne, Simpson, Skoglund, Smith, Stevens, A.; Stevenson, Strout, B.; Swazey, Tardy, Telow, Townsend, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

NAY - Begley, Conley, Dexter, Donald, Duffy, Foss, Foster, Garland, Gould, R. A.; Larrivee, Libby, Macomber, Marsano, McCormick, Norton, O'Dea, Paradis, P.; Reed, Sheltra, Small, Stevens, P.; Tammaro, Tracy.

ABSENT - Dore, Jackson, Nadeau, G. G.; Ruhlin, Strout, D.; The Speaker.

Yes, 122; No, 23; Absent, 6; Paired, 0; Excused, 0.

122 having voted in the affirmative and 23 in the negative with 6 being absent, the motion did prevail.

Subsequently, Committee Amendment "A" was adopted. Under suspension of the rules, the Bill was read the second time and passed to be engrossed as amended

by Committee Amendment "A" and sent up for concurrence.

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

**CONSENT CALENDAR  
First Day**

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

(H.P. 1000) (L.D. 1389) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 to Provide Funds for Acquiring Land for Affordable Housing" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-617)

(S.P. 305) (L.D. 804) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$13,000,000 for Facilities Serving People with Mental Illness" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-329)

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

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

(Off Record Remarks)

(At Ease to 4:00 p.m.)

The House was called to order by the Speaker.

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

**PAPER FROM THE SENATE  
Non-Concurrent Matter**

Bill "An Act to Provide a Referendum to Abolish County Government and Authorize Reassignment of its Functions and Duties to Appropriate State and Municipal Departments and Agencies" (S.P. 312) (L.D. 817) on which the Majority "Ought Not to Pass" Report of the Committee on State and Local Government was read and accepted in the House on June 16, 1989.

Came from the Senate with that Body having insisted on its former action whereby the Minority "Ought to Pass" as amended Report of the Committee on State and Local Government was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-316) in non-concurrence.

The House voted to Adhere.

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent.

**ORDERS**

On motion of Representative CATHCART of Orono, the following Joint Resolution: (H.P. 1273) (Cosponsors: Representative ALLEN of Washington, Representative HANDY of Lewiston and Representative HOGlund of Portland) (Approved for introduction by a

majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REQUIRE HEALTH AND SAFETY DISCLAIMERS ON ALL BROADCAST AND PRINT MEDIA ALCOHOL ADVERTISEMENTS**

WE, your Memorialists, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the Congress of the United States, as follows:

WHEREAS, alcohol is one of the most abused drugs in the State of Maine, its consumption resulting in widespread damage to the health and well-being of individuals and their immediate families; and

WHEREAS, all Maine citizens are placed at risk of crimes and other harm by alcohol misuse and abuse; and

WHEREAS, the citizens of Maine, including young people, share with people across this country constant exposure to advertising, including alcohol advertising; and

WHEREAS, we believe that the citizens of Maine are directly affected and influenced by the relationship between alcohol advertising and alcohol consumption, as documented by various studies; and

WHEREAS, the effectiveness of health warning labels has been studied and reported to the United States Congress; and

WHEREAS, it is not practical or legal for the Maine Legislature to require unilaterally the addition of warning labels on most advertising that is seen in the State of Maine; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to enact federal legislation that would require health and safety disclaimers on all broadcasts and print media alcohol advertising; and be it further

RESOLVED: That duly authenticated copies of this Memorial be submitted by the Secretary of State to the Honorable George H. W. Bush, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

Was read and adopted and sent up for concurrence.

The following items appearing on Supplement No. 9 were taken up out of order by unanimous consent:

**CONSENT CALENDAR  
First Day**

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

(S.P. 651) (L.D. 1746) Bill "An Act to Preserve the Integrity of the Land for Maine's Future Program" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-330)

(S.P. 453) (L.D. 1225) Bill "An Act to Amend Laws Regulating the Sardine Industry" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-331)

(S.P. 608) (L.D. 1702) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$49,500,000 for Construction and Renovation of Correctional Facilities" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-332)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Papers

were passed to be engrossed as amended in concurrence.

The following item appearing on Supplement No. 10 was taken up out of order by unanimous consent:

**REPORTS OF COMMITTEES**

**Ought to Pass Pursuant to Joint Order (H.P. 1216)**  
 Representative NADEAU from the Committee on Housing and Economic Development on Bill "An Act Establishing the Affordable Housing Partnership Act of 1989" (EMERGENCY) (H.P. 1269) (L.D. 1765) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1216)

Report was read and accepted, the Bill read once. Under suspension of the rules, the Bill was read the second time, passed to be engrossed and sent up for concurrence.

The following items appearing on Supplement No. 11 were taken up out of order by unanimous consent:

**PASSED TO BE ENGROSSED**

**WITHOUT REFERENCE TO COMMITTEE**

Resolve, Concerning the Dennistown Plantation School Budget (EMERGENCY) (H.P. 1270) (L.D. 1766) (Presented by Representative ROTONDI of Athens) (Cosponsored by Senator WEBSTER of Franklin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(Committee on Education was suggested)

Under suspension of the rules, without reference to any committee, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

**PETITIONS, BILLS AND RESOLVES**

**REQUIRING REFERENCE**

**Energy and Natural Resources**

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

Bill "An Act Authorizing a Referendum to Ratify a Contract for the Disposal of Low-level Radioactive Waste" (EMERGENCY) (H.P. 1272) (L.D. 1768) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Representative COLES of Harpswell, Senator KANY of Kennebec and Senator LUDWIG of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

**PASSED TO BE ENGROSSED**

**WITHOUT REFERENCE TO COMMITTEE**

Bill "An Act Authorizing Piscataquis County to Expend and Borrow up to an Additional \$350,000 for Renovation and Expansion of Jail Facilities" (EMERGENCY) (H.P. 1271) (L.D. 1767) (Presented by Representative GOULD of Greenville) (Cosponsored by President PRAY of Penobscot, Representative HUSSEY of Milo and Representative MERRILL of Dover-Foxcroft) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(Committee on State and Local Government suggested)

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed and sent up for concurrence.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

Reference is made to (H.P. 808) (L.D. 1120) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-Year Terms for Senators and Representatives (H. "A" H-279)

In reference to the action of the House on June 16, 1989, whereby it Insisted and Joined in a Second Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative MAHANY of Easton  
 Representative MAYO of Thomaston  
 Representative ANDERSON of Woodland

**PASSED TO BE ENGROSSED**

**As Amended**

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1989 (EMERGENCY) (H.P. 1264) (L.D. 1760)

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

Representative Allen of Washington offered House Amendment "A" (H-623) and moved its adoption.

House Amendment "A" was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

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

An Act Regarding Minimum Lot Sizes and Other Municipal Regulations Concerning Mobile Home Parks (H.P. 866) (L.D. 1205) (S. "A" S-280 to C. "A" H-510) TABLED - June 16, 1989 (Till Later Today) by Representative PRIEST of Brunswick.  
 PENDING - Passage to be Enacted.

On motion of Representative Priest of Brunswick, under suspension of the rules, the House reconsidered its action whereby L.D. 1205 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-510) was adopted.

The same Representative offered House Amendment "B" (H-624) to Committee Amendment "A" (H-510) and moved its adoption.

House Amendment "B" to Committee Amendment "A" was read by the Clerk and adopted.

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

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

The Chair laid before the House the following matter: An Act Relating to Public Fish Piers, Airports and Other Transportation Facilities (S.P. 652) (L.D. 1749) (Emergency) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Moholland of Princeton, under suspension of the rules, the House reconsidered its action whereby L.D. 1749 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-618) and moved its adoption.  
House Amendment "A" was read by the Clerk and adopted.

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

On motion of Representative Jacques of Waterville, the House reconsidered its action whereby (H.P. 895) (L.D. 1239) Bill "An Act to Amend and Update Laws Pertaining to Inland Fisheries and Wildlife" (EMERGENCY) was passed to be engrossed as amended by Committee Amendment "A."

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-615) was adopted.

The same Representative offered House Amendment "A" (H-626) to Committee Amendment "A" (H-615) and moved its adoption.

House Amendment "A" to Committee Amendment "A" 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 and sent up for concurrence.

On motion of Representative Clark of Millinocket, the House reconsidered its action whereby Bill "An Act to Amend the Norridgewock Water District Charter" (S.P. 655) (L.D. 1762) was passed to be engrossed.

The same Representative offered House Amendment "B" (H-625) and moved its adoption.

House Amendment "B" was read by the Clerk and adopted.

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

At this point, the Speaker appointed Representative Michaud of East Millinocket to act as Speaker pro tem.

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

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

**REPORTS OF COMMITTEES**  
**Divided Report**

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-621) on Bill "An Act to Establish the Department of Child and Family Services" (EMERGENCY) (H.P. 1199) (L.D. 1666)

Signed:

Senators: ESTY of Cumberland  
Representatives: GWADOSKY of Fairfield  
DAGGETT of Augusta  
ROTONDI of Athens  
LARRIVEE of Gorham  
HEESCHEN of Wilton  
JOSEPH of Waterville

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-622) on same Bill.

Signed:

Senators: BERUBE of Androscoggin  
Representatives: CARPENTER of York  
HANLEY of Paris

MCCORMICK of Rockport  
BEGLEY of Waldoboro  
WENTWORTH of Wells

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I hope you will not vote the Majority Report so that we may vote the Minority Report with Amendment "B".

Representative Joseph of Waterville 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 PRO TEM: The Chair recognizes the Representative from Rockport, Representative McCormick.

Representative MCCORMICK: Mr. Speaker, Ladies and Gentlemen of the House: This bill concerns me greatly. I sat on the State and Local Government Committee. I would agree with Representative Wentworth, we should reject this bill and vote for the Minority Report. The reason I say that is, this bill is what I call an open checkbook, we lack a complete structural plan for this bill. In addition to that, there was no (as far as I know) budgetary constraints or projections shown for this. It is the establishment of a complete department and yet we don't have a fiscal note for it. I think it is very irresponsible to pass this bill in its present form. I would recommend very strongly that you vote not to accept the Majority Report so that you might support Amendment "B".

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: This is a very important piece of legislation. This piece of legislation creates the Department of Child and Family Services. It also says that Maine children and Maine families will then have an advocate on the Governor's cabinet.

This piece of legislation includes a transition clause that was used in 1971 and 1972 which established the Department of Human Services. This transition committee will be composed of 13 members from several committees. This transition committee will then report back to the legislature its findings and implementation of this policy that we are setting today. This brings focus to the families and children of this state. We feel that this will better serve our children and our families, those who are from troubled families and more effectively utilize tax dollars much more efficiently than it is today.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Audit and Program Review Committee and having served on that Committee for a number of sessions, we studied the child welfare services for three or four years. I would like to read to you from Volume III of our report which had to do with just this issue. "The Committee finds that a task force should be appointed to assess the needs to establish a separate

Department of Child and Family Services to incorporate all child and family service programs now administered by the Departments of Human Services, Educational and Cultural Services, Corrections, Mental Health and Mental Retardation. State programs which serve the child and family are now offered primarily by four state agencies. The Department of Human Services alone spends over \$40 million annually in the account areas of purchased social services, regional social services, social services administration, child welfare services, AFDC foster care and aide to charitable institutions. Approximately \$4 million additional dollars are spent annually by other departments in the state on behalf of children and their families. Proper and efficient administration of these programs now requires many staff and a number of different agencies to successfully develop and use interdepartmental communication mechanisms."

I think this is a good piece of legislation and I certainly hope you will vote for the Majority Report.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: Both the CHINS study and the Juvenile Corrections Planning Commission which reviewed this issue determined that, at that time, they did not have enough information to recommend the creation of a separate department. That should tell us something. That was a very intense commission. There was a gentleman from the 113th that chaired that commission, Representative Dale Thistle, and their conclusion was they did not have enough information at that time to recommend creating a new department.

I guess I would pose two questions to any signer of the Majority Report -- is there in fact a fiscal note for the administrative costs of creating and operating a totally new department? And, have the actual duplicative positions, which have been outlined, been identified?

The SPEAKER PRO TEM: Representative Hanley of Paris has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: In reference to the Representative's question and also his reference to the former legislator, Dale Thistle, who in fact was the Chair on the Commission on Children in Need of Supervision, I would like to first talk about that commission because the Commission on Children in Need of Supervision was established to develop a long-range plan for the state to better assist children and their families who are in need of special services. This particular commission met for two years. The commission recommended that creation of a commission on youth and families. It refrained from endorsing a department at that time because they lacked the authority to consider the full ramifications of such a recommendation in the commission's initial enabling legislation. However, the commission not only suggests that a department on youth and family be created, it proposes that its recommendation of an initial commission is a step in that very direction.

Also, as was determined, currently over \$110 million is spent annually on children services in Maine. That figure can very likely be reduced substantially by eliminating unnecessary duplication by consolidating efforts under one roof. For example, some service providers such as the Spurwink School, many of us are familiar with, they contract

with each of four departments currently overseeing children's services. Not only does the Spurwink School make out four separate contracts but each of the departments has a contract to review them. Subsequently, the state incurs duplicative expenses.

Now, a cabinet level Department of Children that the CHINS Commission found will also carry the clout to take issues directly to the Governor's office. There will be a commissioner named 45 days after this legislation is enacted. The focus will be on children and their needs. Children will be a priority in our state government.

Additionally, a special frustration that the CHINS Commission heard over and over again in its deliberations from parents across the state was that no one was in charge. Phone calls to one department were referred to another department, then to another department, over and over again. This left parents confused, frustrated, and unable to determine which department was supposed to help. The CHINS Commission posed a first point of contact secure referral service. The gist of this proposal is to make sure that the first phone call for help gets help. This is the basis for our decision.

As to the fiscal note on Amendment "A", there is a fiscal note that describes the cost of the transition committee, the cost of the commissioner, and also what the savings could be if in fact (at first glance -- please understand, at first glance) an estimated elimination of three and a half positions. The elimination of these positions and related support funds are estimated to be approximately \$190,264 in fiscal year 1990-91. Again, I must emphasize this is at first glance. It will be the transition team or the transition committee that will go into this issue further and look at duplicative positions.

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

Representative ANTHONY: Mr. Speaker, Men and women of the House: I rise to further answer the good Representative's concerns about the (in my case) the Juvenile Corrections Planning Commission. Our commission did look at this issue to some degree and basically backed off from it feeling that we did not have it within the scope of our purview of the corrections area to be making a recommendation of this sort as proposed here, a department, a separate and distinct Department of Children and Families. Instead, what we did was to recommend a separate and distinct Bureau of Youth Corrections within the Department of Corrections. We viewed that it was important to give focus to the work of juvenile corrections as opposed to adult corrections and in fact that recommendation was put into an L.D. which was passed and is sitting on the Appropriations Table at this moment.

I wanted to go a bit further and say that there was certainly some sentiment within the Juvenile Corrections Planning Commission membership that a distinct and separate Bureau for Children and Families might be a good idea. If I could estimate it based on recollection, probably more than half of the members did feel it was a good idea but that we did feel it was beyond the scope of our direction.

I would like to add one other point and that is, I have done a lot of work with children and families over the year. I have been very involved with the Coalition of Maine's Children and a number of other groups. I supported this particular proposal for one reason and one reason only. It seems to me that we had toyed around with the idea for a long time of bringing all child services under one umbrella. We

have currently an interdepartmental coordinating committee which attempts to coordinate problems that arise under the present system where we serve various aspects of children's needs, but we don't have any place where we serve a child. In fact, we specifically do not do that, we serve this portion of a child's need in this way and that portion of a child's need in another way and that causes problems from time to time.

Recently, in handling a juvenile case in court representing a juvenile, I encountered this problem once again when I was trying to get a juvenile his services that he needed, clearly needed, in order to get the problems which led him to juvenile court resolved. What I found was, once again, the problems of meeting the juvenile corrections problems, the juvenile education problems there and the juvenile's problems with his family life through the Department of Human Services. They were all looking at just one aspect of a child at a time.

I don't have any expectation that establishing a separate and distinct Department of Children and Family Services in one place will resolve all those problems but I do believe that it will make them easier to resolve, that it is going to be much easier to get all of the various services working for individual children to work together closely when they are all working under one departmental umbrella. It is for that reason that I support this measure. I think it is time that we moved on to this and that we would be better serving of children's needs in passing this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I do agree with Representative Anthony. We did understand (the six of us who voted against the Majority Report) that we should have a structure prepared for whatever developed before we started developing it. As for a savings, I do not see how you can estimate savings until you have a structure to work on.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Members of the House: I rise to support the Department of Families and Children and urge you to vote for this legislation. As a person who has worked with battered women and their children, I have personally seen how difficult it can be to find the needed services for children who are victims of abuse and neglect. I believe having one department would make a difference.

Some of the strongest support from my area of the state has come from the pediatricians at Eastern Maine Medical Center in Bangor. I would like to quote from a letter signed by three of those pediatricians to Representative Joseph. I will quote briefly, "Such a department would strengthen advocacy for children and their special issues and needs putting them at the top of the list instead of vying for space on the request lists of many departments. The concept of a single case manager for the diverse needs of troubled children and families has a great deal of appeal. I deal with a number of such families in my role of delivering care to the disadvantaged and providing services to abused and neglected children. I am constantly amazed at the multiplicity of agencies that end up being involved often seemingly working at cross purposes or ironically trying to shift responsibility elsewhere." This letter is signed by Dr. John Farquhar, Jr., Director of the Rural Pediatric Health Service and co-chair of the Suspected Child Abuse and

Neglect Committee at Eastern Maine Medical and by his colleagues, Dr. James Hershfeld, the Chief of Pediatrics and Dr. Robert Holmberg, the President of the Maine Chapter of American Academy of Pediatrics. I urge you to support this bill.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: If I could just respond to the good Representative from South Portland, Representative Anthony, when he told this House that members of the Juvenile Corrections Planning Committee thought that it might be a good idea. I, too, think that it might be a good idea and it is a very laudable goal. As the fact sheet on L.D. 1666 points out, this would create less bureaucracy. The proposed department would reduce bureaucracy, it reads, "while still utilizing the same number of frontline state and private agency employees. The streamlining of overlapping central office functions will reduce unnecessary management positions."

If that was the case, I would have heartedly signed on with the Majority Report on this issue. The fact of the matter is, and the option that we are allowing you on the Minority Report, which is a bipartisan Minority Report, is very similar to a piece of legislation that Senator Brannigan put in that followed up from the CHINS study. What this study would do is further look specifically at the creation of a Department for Children and as far as what is the most effective and efficient dispersal of these services. Right now, it is very difficult as Representative McCormick pointed out, to just give an open checkbook to a new department. I asked any member on the Majority Report for a fiscal note for the administrative costs. I looked through the fiscal note on this amendment and I guess I have a difficulty in thinking that that fiscal note totally will encompass all of the needs of a new department.

Just one example alone, and the Representative from Orono, Representative Cathcart, pointed this out in the letter that she read, they requested a single case manager for every case. Just in the Corrections Agency alone, there are 250 juveniles presently at the Maine Youth Center, 2,000 juveniles on probation, that is 2,250 case workers alone just for the Corrections Agency. That actuality isn't addressed in the current fiscal note. How can we be voting today on a brand new department that does not have a fiscal note that reflects all of the these changes that will have to come about?

I request that you vote against the pending motion so you can accept the Minority Report which would be a study that the CHINS Commission said needed to be done in order to fully look at what the proper way to deliver these services are.

As I mentioned at the outset, it is a very laudable goal. Every person in this House wants to do what is best for children in need and families in need. I think we should do that in a fiscally responsible manner.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: I had the good fortune over the past year to chair the Special Commission on Early Childhood Education and Development. That commission, too, made a similar recommendation. I would like to quote from the Report which was issued earlier this session. "We believe a state cabinet level department for children should be established. The new department would combine and coordinate the various child-related programs and services now housed in several state departments including

Education, Human Services, Mental Health and Retardation and Corrections."

Now, the actual recommendations is the Blue Ribbon Commission. The good Representative from Paris keeps raising the issue that the Juvenile Justice Planning Commission, the CHINS Report, the Audit and Program Review Committee (and he didn't mention the Commission that I chaired) and the Early Childhood Commission, all made recommendations with respect to establishing a Blue Ribbon Commission to create, to create, not to study the feasibility of creating or whether we should or should not but to create a cabinet level Department of Children.

The signers of the Majority Report and I am sure the sponsor of the legislation worked very, very hard on this legislation. That is clear to me because they clearly outlined the various areas that will be considered in establishing the department.

Mr. Hanley seems to want to avoid acknowledging the fact that those points exist in the committee amendment beginning on page five. Furthermore, Mr. Hanley keeps asking for a fiscal note. The good Representative from Waterville, Representative Joseph, has "laid it on the line" as a former Representative of this body used to say. But, he is not hearing -- it is a wash Representative Hanley, it is a wash. I think it is time to take action and with three separate commissions, all with jurisdictions in different areas stop short of the actual creation because of that limited scope of their studies, that is why Representative Hanley. You can't go beyond your scope of your study, you have to stay within it.

I think all of the questions have been answered and the remaining question that needs to be addressed is the actual creation of the department. I think the signers of the Majority Report and the sponsors and those individuals who worked long and hard on this legislation deserve the credit of coming up with a comprehensive plan for transitioning and implementing this cabinet level Department of Children that will address the needs of children and families of this state. I think it is time to put your cards on the table, Representative Hanley, either you want to create a Department of Children and Families or you don't. I don't think you do because I don't think you really care.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, served on Audit and Program Review and I sensed the frustration that the service providers had when they came in and told us they had four departments to deal with, four contracts to negotiate. I think I made a vow to myself at that time that we had to do something. When this CHINS Committee was set up, I made it a point (I wasn't on it) to attend as many of the meetings as I could. We had a public meeting of the CHINS in York County. I sat there and listened to the frustration of the parents. These were people who were crying out for help for their children. They didn't know where to go. They made one telephone call, the buck was passed, they went through all four departments, they never did get an answer. We had a father set there and say he begged for some sort of help for his child but he could not get it until the child had broken the law. Sometimes I think it is too late at that point. When a child has broken the law, he then comes under another whole set of rules. If we are ever going to turn our children around in this state, we have got to get them at an early stage. Whether this is a wash or -- even if it costs us a few bucks, I guess I am willing

to spend that money in hopes that we can straighten some of these kids out and keep them out of our juvenile delinquent system and keep them out of our state prison when they grow up because it is going to cost a lot more money supporting these kids there than it does in helping them out to begin with.

Today, when the vote is taken, I am going to have to go on the side of the Majority Report because I really believe that it is time to act. We have talked, we have studied and the time for study is over, we have got children in crisis out there specially in the southern part of the state and my conscience will not let me vote against this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: I really do care. I am a former family case worker, I have shadowed case workers from the department and I know what they are up against and I realize how difficult it is. But, you cannot have one case worker per family, there would just not be money enough or case workers enough to go around, there has to be cooperation and I think that is what Report "B" is talking about. We have to get the cooperation, get the department organized, and then perhaps set up something but not start in right away saying we need one case worker per family. It is not possible, you would have to spend far too much money.

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

Representative MCCORMICK: Mr. Speaker, Ladies and Gentlemen of the House: I won't take but another minute or two. I just want to make one thing clear. I think every one of us on the State and Local Government Committee have great concern for children. I don't think there was any disagreement that we needed a special coordinator for this. The problem with the bill as written, L.D. 1666, is it puts the horse before the cart. It is establishing a committee without having the structure for that department set up and then it is going to do a study after the department is set up. I just wanted to make that clear, that if this was the other way around, I guess I would feel far more comfortable but I am very concerned with it this way because you are going to be setting up a department before you even know.

I do have great reservations about the fiscal notes that are shown. In committee at least, if there is information more than what we had before the committee, I would have liked to have heard about it but we were given really very sketchy material as far as costs to this department is concerned.

I think every one of you have an idea of what a department costs in the State of Maine.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Some of you may be surprised to see me on my feet. The reason I am standing before you is I happen to be a cosponsor of this bill and I happen to believe very deeply that the time has come to do what is right for the most precious resource that we have in this state, our children.

You have heard many reasons why you should support the Majority Report "A." If you want to pay lip service, you want to blow a smoke screen, then you support the Minority Report, Report "B." You know, the thing that bothers me and has ever since I have been serving in this august body is the fact that we never deal with the causes. We always deal with the symptoms. We should do what is right the first time. If we don't pass this bill, if we don't

address the issue, the causes, then what is going to happen?

I have seen the budget grow in expenditures dealing with children. Currently, we are spending in excess of half a billion dollars, general and federal funds for the children's services in this state, in excess of half a billion dollars and it keeps growing. Do you know why it keeps growing? Because we don't deal with the causes. We just deal with the problems after they have risen.

Let me give you an example of what I mean. Many of you were on the Legislative Economic Institute Tour. When I was on the last one, I chose to visit the Job Corp Center in Bangor. I was curious, I heard it was an excellent program and I was looking for some answers. I asked how many youngsters did they serve? They serve 400 youngsters a year. I asked how many youngsters or how big a pool are they drawing from? Well, about 4,000 youngsters a year go through the system that aren't ready to cope with life. 3,000 of those youngsters are high school drop-outs. 1,000 of them go through the system, go through the paces and are not ready. I asked if they had any statistics on why those 4,000 youngsters for some reason didn't make it through the system? No, no statistics. Well, how did they get in here, it is only income-related, that is the only statistic that they could put together. I said, "How in God's name are you ever going to catch up, you have 4,000 youngsters and you deal with 400, you will never catch up?"

I don't care how long you try, but you have got to start at the beginning. You have to start in the formative years of a youngsters life, not after he has fallen by the wayside, it is too late then. You can look at statistic after statistic in our correctional system -- if you don't deal with the causes, they go from one institution to another until they end up in Thomaston and we pay a lot more money. It is not just the money we should be concerned about, we should be concerned about the human life that is gone, that is lost, because we as legislators did not do the right things, we just merely dealt with the symptoms instead of dealing with the causes.

On the Appropriations Committee, we see all kinds of requests. We know that in some cases there are two and three and four different case workers that call on the same individual family and they don't communicate. The recipients don't know that the case workers don't communicate. In some cases, they are required to send information back to the department and they give it to case worker "A" -- well, case worker "A" invariably fails to give it to case worker "B" and the recipient probably is in trouble. We tried to correct some of those problems but we can't correct them all. What we need is a department and you have heard good reasons why. I am not going back and explain the reasons why. But, the proper thing to do is to vote for the Majority Report "A", set the department up, provide the services that these youngsters need and should have and in the long run, we will be way ahead and so will they. I would urge you to join with me and vote for the Majority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I would address your attention to the fact sheet that was handed out on this bill, L.D. 1666. Towards the bottom it says, "The proposed process for the transfer and implementation of the functions of this department closely follows the process employed by the Republican Legislature and Democratic Governor when

restructuring all state agencies in 1971-72." I can speak with some knowledge of that particular effort since I was the Governor's liaison with the legislature when we restructured state government. We restructured something like 240 separate departments, agencies, bureaus etcetera which at that time were reporting directly to the Governor into 14 major departments. We did it smoothly, efficiently and without additional costs. It has pretty much stayed the way we did it back then. I have always resisted supporting changes to that massive reorganization. But today, I am going to support this legislation because the problems of the children of the state have continually impinged upon us.

In my own experience, it started when I was on the Education Committee. We had people who were running the residential treatment agencies dealing with these children and telling us of their frustrations dealing with the Department of Education, Human Services, Mental Health and in some cases Corrections. We had one person from one agency come and tell us that his agency dealt with 22 different states, he never had any worse problems than he did in the State of Maine. He worked with something called the IDC, the Interdepartmental Committee. As far as I understand, those problems have not changed in the many years since I have been on the Education Committee.

I also had a personal experience trying to help out an agency down in York County called Day One. This is where kids are in long-term alcohol treatment. We needed to get some permanent education for those kids. It took me four years and all kinds of acrobatics before I could somehow get that done. The problems keep flooding in on us.

I had a call this year from the Department of Human Services workers in York County and Cumberland County, desperate, actually risking their jobs to contact legislators because they had 100 kids who were either in improper placements or running wild in the streets even though they were state wards.

Another complaint that we had come before the Audit and Program Review Committee was a question of out-of-state placements, kids in Maine who were going to facilities out of state. We saw expenditures of \$5 million for something like 83 kids. Some of those kids are going to places in Texas that cost \$120,000 to \$160,000 a year. How do you deal with something like that? We have asked them not to send kids out-of-state but we now understand they are going back to that.

As the gentleman from Winslow said, you start by trying to get them early.

I spent part of today talking with the Ombudsman for Child Welfare. We talked about that specifically. Kids that are sexually abused at a very young age and how you can deal with them so they don't become that kind of \$120,000 problem later on. What we mainly talked about was the need for a team approach, something to cut across the functional departmental bureaucratic lines. That to me is the only approach that has really worked well and that is why I am going to support this Department of Children and Family Services and I hope you will too.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I couldn't support a bill more wholeheartedly than I do this particular piece of legislation. As a member of the Juvenile Corrections Committee, I too heard the same things that Representative Murphy from Berwick heard. When the parents would come in as we traveled across the state, every single meeting that we went to the

parents were there saying, please help. Every time we look for assistance, all we hear is, let them break the law, then we can help you. If you want to see and hear something that is sad, it is having a parent come and tell you what they had to do to maneuver something so that they could turn around and report their own kids as having broken the law in order to get assistance from the state in helping with their problem children. It is sad, and when you see them, they are embarrassed to come and tell you that they have turned their kids in, I think it is something that parents shouldn't have to go through.

I think if we were to create a Department, these problems would have to be resolved pretty quickly because as it is now, one department shifts the responsibility onto the other department. In this case, everyone that had a problem with their children would have a place to come to and that department would be the one that would have to answer. So, let me tell you, we would be getting the right help for our kids. Please vote for the Majority Report.

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

Representative PARADIS: Mr. Speaker, Members of the House: I am certain that the members of the Committee have done a fine job here with this bill. Even though they have arrived at two different reports for implementing the program, they both are sincere and they are both serious in their efforts to provide improvement to our children's programs. My personal experience with the department, which is currently charged with oversight in implementation of children's programs, leaves considerable to be desired from my point of view. I think there is much room for improvement and I also believe that the Majority Report offers us the fastest opportunity to get on with the chore and see to it that this service is provided to those children. I hope you will join with me in supporting the Majority Report.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is the motion of Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report.

The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, I wish to be recorded as voting yea.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report. Those in favor of that motion will vote yea, those opposed will vote nay.

ROLL CALL NO. 107

YEA - Adams, Aliberti, Anderson, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Curran, Daggett, Dipietro, Donald, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Foster, Gould, R. A.; Greenlaw, Gwadosky, Handy, Hastings, Heesch, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, LaPointe, Larrivee, Lawrence, Lisnik, Lord, Luther, Macomber, Mahany, Manning, Marsh, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McPherson, Melendy, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Dea, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pendleton, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Richards, Ridley, Rolde, Rotondi, Ruhl, Rydell, Seavey, Sheltra, Sherburne, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, The Speaker.

NAY - Aikman, Ault, Bailey, Begley, Butland, Dellert, Dexter, Farren, Foss, Garland, Hanley, Hepburn, Hutchins, Lebowitz, Libby, Look, MacBride, Marsano, McCormick, Merrill, Norton, Parent, Pines, Reed, Small, Stevens, A.; Stevenson, Strout, B.; Webster, M.; Wentworth, Whitcomb.

ABSENT - Allen, Crowley, Dore, Graham, Gurney, Hale, Higgins, Jackson, Kilkelly, McSweeney, Michaud, Nadeau, G. G.; O'Gara, Pederson.

Yes, 107; No, 31; Absent, 14; Paired, 0; Excused, 0.

107 having voted in the affirmative and 31 in the negative with 14 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-621) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Establish the Office of Children within the Executive Department" (H.P. 608) (L.D. 832)

Signed:

Senators: BERUBE of Androscoggin  
ESTY of Cumberland  
Representatives: LARRIVEE of Gorham  
HEESCHEN of Wilton  
ROTONDI of Athens  
GWADOSKY of Fairfield  
JOSEPH of Waterville  
DAGGETT of Augusta

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

Signed:

Senator: CARPENTER of York  
Representatives: HANLEY of Paris  
McCORMICK of Rockport  
BEGLEY of Waldoboro  
WENTWORTH of Wells

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker and Members of the House: I ask you to vote against the Majority "Ought Not to Pass" Report so that you can vote "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I agree with many of the ideas expressed earlier when we were debating L.D. 1666, children do need a cohesive voice at the highest policy making levels. However, I do not believe that creating a new state bureaucracy or department with bureaus and sub-bureaus would be as effective and as cost efficient as the bill before you now, L.D. 832. In fact, I think it strains one's imagination a bit to accept the notion that creating an entirely new state bureaucracy will actually save us money or cost no additional dollars. L.D. 832 establishes an Office of Children within the Executive Department. I would like to note that Senator Barbara Gill and I have been working on this idea for more than two years and we are very proud to

put it before this legislature. It does propose creating a cabinet level office, a planning function, giving children the same voice in policy making as the environment has, as corrections has, as fisheries have and other state departments. It will formalize the role of the committee for the interdepartmental coordination of services to children and families. As we all know, that committee consists of the Commissioner of Corrections, Education, Human Services and Mental Health. That function would be folded into the Office of Children which will monitor and coordinate state programs with the goal of removing duplicative services and competition between state agencies, hopefully eliminating any potential turf battles. The office shall develop a master plan and assess current services.

The primary goal will be to plan for the long-term, anticipate the needs rather than react to crises in the area of children's needs. L.D. 832 also creates an advisory committee on children who will assist the director of the office in development of a master plan. It is not intended to supplant existing state departments nor take over their functions. I do not suggest that we create another state bureaucracy with overlapping responsibilities. I am not convinced that we can sort out the children's functions cleanly. I do, however, wish to streamline our programs for children, plan for the future in an integrated way, give parents and families a clear line of communication with state government and, most importantly, give children an equal voice in cabinet level meetings.

I would like to quote to you as I did to the committee when I presented this bill from Bob Keeschen who we all (most of us) remember as Captain Kangaroo when he spoke in Maine last December at the Distinguished Lecture Series. The title of his speech was "Small Children Need Big Friends." I am quoting him now, "We know from bitter experience that children very often are not assigned to high priority in the halls of Congress, the executive, state legislatures and city governments. Indeed, children are not assigned a high priority in many American homes. I suggest that each of us living in America today, whether we have anything to do with children or not, is directly affected by how we treat children and indeed we are all living a life-style shaped to a large extent by the way we have treated children in this nation over the last 20 years. If someone fails to feel compassion for children, at least he can act as a frugal taxpayer and understand that the maltreatment of children is very costly to the economy and that programs of child care and nutrition, education, and health care make solid economic sense for our country."

Mr. Speaker, I request a roll call.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I strongly urge you to vote against the Majority Report which is "Ought Not to Pass" so we can accept the Minority Report of "Ought to Pass." We do have four or five departments which are now working very diligently for our children and

I am not suggesting that those be changed that much but we also recognize that we do need more coordination of these activities and I strongly support the creation and the establishment of the Office of Children within the Executive Department which would give the children a voice in policy-making and this voice would fit at the cabinet level and help look out for the needs of our children.

I strongly urge you to support the Minority Report.

The SPEAKER PRO TEM: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 108

YEA - Adams, Aliberti, Allen, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Foster, Gould, R. A.; Graham, Gurney, Gwadodsky, Handy, Heesch, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Skoglund, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Townsend, Tracy, Walker.

NAY - Aikman, Anderson, Anthony, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Hepburn, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Simpson, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Dipietro, Dore, Hale, Higgins, Jackson, Kilkelly, Nadeau, G. G.; O'Gara, Smith, The Speaker.

Yes, 92; No, 49; Absent, 10; Paired, 0; Excused, 0.

92 having voted in the affirmative and 49 in the negative with 10 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

#### TABLED AND TODAY ASSIGNED

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

An Act to Allow Recovery for Wrongful Death of an Unborn Viable Fetus (H.P. 408) (L.D. 551) (S. "A" S-274 to C. "A" H-429)

TABLED - June 16, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted. (Roll Call Requested)

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: No one, certainly not I, would discount the very real pain felt by parents who lose their children. However, this bill is not the way to compensate or to comfort parents who experience stillbirth, no matter what the cause or the gestation. Make no mistake about this bill, this bill was proposed and is supported by the Maine Right to Life Committee. This group is not a victim of

crime advocacy group. It is not a prenatal health care advocacy group. Its organizations mission is to stop safe, legal abortions. If you have any doubt about this. Look at the original title of this bill. It refers to unborn children, not aggrieved parents. It was intended to place on the books those words "unborn children", a concept that radically departs from the statutory and common law definition of a person with full legal rights. If we pass this bill, some may tell the courts that the legislature has established a precedent by giving personhood to a fetus even in such restricted circumstances as cases of wrongful death.

In other states, this claim of fetal rights has been used to force women to undergo caesarean sections against their will or those of their families. It has been used to try to prevent women like Mrs. Klein from obtaining legal abortions, even to save their own lives. It has been used as reason to jail, institutionalize women as well as prosecute them for their own conduct during pregnancy.

For the Record, this bill has supposedly been amended to preclude the use of this legislation for these purposes. However, I remain concerned that some outside this body may attempt to use this legislation for such legal challenges as has happened in other states. Therefore, I will be voting no on enactment on L.D. 551 "An Act to Allow Recovery for Wrongful Death of Unborn Children" -- even with a new title. I urge all of you to do the same. This is not the way to comfort grieving parents.

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

Representative ANTHONY: Mr. Speaker, Men and Women of the House: The good Representative from Brunswick is right, this bill was in fact brought forth by the Maine Right to Life Committee and if it were the original bill that you were asked to vote on, I might be agreeing with her. But it is not the original bill that you are being asked to vote on, we are being asked to vote on a very carefully, limited, very carefully drawn bill which does not allow all the various concerns that the good Representative from Brunswick alluded to. It does not specifically exclude, for example, the possibility of an action brought against the mother to compel a caesarean section or some other form of health care measure by a mother for an unborn fetus. What you are being asked to vote on today, in short, is a bill that is to allow recovery. If you are pregnant and in the final months of pregnancy, because of an accident by somebody not the mother, and that action results in the death of the fetus and the fetus can be shown to have been viable and if further restriction by the amendment that the benefit can only be for the benefit of the mother or father of the unborn viable fetus, then and only then, would a recovery be allowed.

So what you are being asked to vote here today is not the original bill, it is not the various concerns expressed by Representative Clark from Brunswick -- what you are being asked to vote is something that has been worked long and hard. The reason this was tabled for so long was again to try to fashion additional measures -- the Senate Amendment is in response to other concerns and we have struggled very hard and what you have here is consensus bill that addresses the concerns and is deserving of your support. I ask you to vote in favor of enactment.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I will be much briefer than when

I spoke on this before because, as you recall, it was cooler that day. I spoke because the law was an ass and many claimed instead that it was I because I spoke so long.

Be that as it may, this law is flawed, it is totally flawed. It has been proven by the amendments that have tried to be drafted to correct the inadequacies of the original drafting. This bill does create substantial change in law which was found recently by a court to exist by a 4 to 3 decision. They would, as the Representative from South Portland, Representative Cushman indicated, moved the line. They changed from a black and white line to a very gray line which moves and moves and moves. No one knows exactly what is a viable fetus. It does not exist the same in South Portland as it does in Presque Isle.

This is a Divided Committee Report, it was one that we could not grapple with in our committee. I believe, because of the amendments and the reason it was flagged to try to draft corrective amendments, which were unsuccessfully added, we should look at it as a poorly drafted bill which, indeed, will create many problems for many people. It does not address the problem that was seen to exist, therefore, I urge you not to pass this bill but I would move that this bill and all its accompanying papers be indefinitely postponed.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding of the amendment that was just talked about being drafted and that the bill before us is flawed, my understanding of that is basically to have said in ten words what we said in fifty words. I agreed with the one that was going around, I still agree with the one that we have before us, it still says the same thing.

To address the specific problem of viable fetus, I disagree with the representation that was made as to how you define that. Our law has defined it, our law has defined it in 36 other states and you can bet (in defining viable fetus) we will look to the other 36 states in the testimony, in the evidence brought forth in defining what that is.

I have to be very honest with you, you have a new cause of action which this is and that is probably one of the first issues that will go up before our Law Court, which is not unusual, to determine the particular standard, the particular testimony -- who can testify, what type of doctor can testify and what type of evidence can get in. You are not going to have ten different versions of what a viable fetus is, you may have one or two or possibly three and you will have a definition perhaps that will agree on all three's, leaving out the four, and that item will then go up to get it on all four's so that is an agreement. That is not unusual. Our Law Court is there for that purpose, to address that specific purpose in defining things that we need for the Law Court to define.

Ladies and gentlemen of the House, the real situation is that you have two parties, two parents that have gotten married, and the third year conception, the excitement of a positive test, a medical doctor, monthly visits going on for a period of time, the heartbeat, the excitement, the weekly visits, the checkups, further excitement, the child is now moving within the womb. Then you have that experience by the woman and I can speak from personal experience because I was involved with our first child intimately with my wife, going through Lamaze, listening to the heartbeat without the need of a

stethoscope. counting the heartbeat to determine whether it was a boy or a girl — if it is under 140 beats, it's a boy (wives tale) and if it is over 140, it is a girl. That happened to prove right in this circumstance, it was under 140 and it was a boy. I can tell you that right from the beginning when I heard that heartbeat the excitement that I had in that child. Lamaze went on for a period of weeks, the excitement of going through natural childbirth assisting my wife in birth — my wife's breast filling with milk to nurture the child which she breast-fed for a year and a half and anticipating that to occur.

Then you take the situation, which is not mine but has been other people, an accident, a car accident being the most common, the mother perhaps survives, the child is killed. You can't tell me that there is no sense of loss. You can't tell me that it is not proper to draw that line. You can't tell me that we have come a long way since 1960 in *Roe v. Wade*. We have come a long way in determining the technology and determining what a viable fetus is. In 1960, *Roe v. Wade*, we didn't know. This is not a pro-life issue, this is an issue that makes a logical step, that step back to a viable fetus living to the courts to determine what that is.

I ask you to oppose the motion to indefinitely postpone and go with the logical choice, dispel the absurdity to say that, if you scratch the child, you can be sued. If you kill the child, you cannot.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: I hope that you will vote to indefinitely postpone this bill and I ask for 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 PRO TEM: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Men and Women of the House: This is a 4 to 3 Law Court decision that was handed down on this issue and in that decision Justice Daniel Wathen challenged the legislature to make its intent known to make a decision. He says, "Unless the court is prepared to bar a claim for prenatal injury, we are now left with the results that prenatal injury is actionable while prenatal death is not. The absurdity of such a result is usually illustrated by the hypothetical of twins suffering simultaneous prenatal injury with one dying moments before birth and the other dying moments after birth. Such an extreme case demonstrates the irrationality of the requirement of a live birth."

I hope you will not support the motion to indefinitely postpone.

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

Representative FARNSWORTH: Mr. Speaker, Members of the House: When I spoke several days ago on this bill, I had as my first concern a number of technical issues and beyond that, sort of a more general concern about whether we were clear enough about what we were doing. I am not going to take time today to

talk about the technical issues except to comment that every lawyer, every person that has looked at this bill, has a different idea of what it means and whether or not it is in proper form and I think all the discussion of several days ago about the potential for litigation of this bill, added insurance and those kinds of things, are all valid concerns. But they are not the reason that I intend to vote for the motion to indefinitely postpone today and why I have been so deeply troubled by this bill.

When we discussed this bill several days ago, my understanding (and it is also my understanding today listening to the people who are in support of this bill) was that the purpose of this bill was to compensate the parents for their loss in a terribly, tragic situation. I don't believe that people on either side of this issue disagree with that as a concern. I think one disagreement that we have is whether or not we need to pass this bill in order to do that.

A second concern that I have is if we pass this particular bill we are not causing other much worse problems than the one we are trying to solve. With respect to this bill not being necessary, I would only comment that the Law Court decision that Representative MacBride just read from did in fact rule against a wrongful death claim of a fetus based on existing law, to say that our Probate Code does not read into the word "person" a fetus but that same court decision did uphold the validity of claims filed by the parents in that case for negligent treatment by the hospitals, claims for infliction of mental and emotional distress and a claim by the husband for loss of consortium. Those are tort claims, those are claims that have no cap on them, those are claims that allow the parents to file a claim based on their own personal loss, their own grief, the harm that was done to them. I think that is the kind of claim that we should have on these kinds of cases.

This bill proposes a very different kind of claim. This bill proposes, not an action to be filed by the parents, this is the radical part of this bill — this bill proposes that the estate of the fetus be allowed to file a lawsuit through a Personal Representative and the claim is for an amount up to \$75,000 which will be the limit after this session under the wrongful death statute. This is a very different kind of claim than a claim by parents. It is clearly limited now due to the work of the committee and amendments to the benefit of the parents and that is not the issue anymore. In my view, the issue is this bill is an extra form of relief for parents in addition to several different types of claims which they can already file for — should we be doing this when we have so much liability litigation out of the bill?

There is also one other major issue which I would like to speak to. I would call your attention to the article in the *Kennebec Journal* which appeared, I believe, the day after the last House vote on this subject. The headline of that article was not "House Creates New Cause of Action for Parents", the headline was "House Approves Fetal Rights Bill." I was surprised, I was here, I did not have that sense that that was our discussion. What concerns me about this bill is that it will be perceived, whether we mean it or not, and I think great care has been taken by both the speakers on the bill and also the drafters of the bill, to attempt to limit the bill to be for the benefit of the parents and to make clear that it is not intended to be a fetal rights bill. The fact is that the mechanism of wrongful death which creates an estate of a fetus creates a right

for the fetus to bring a lawsuit so it creates a right in that sense. Why do I care about fetal rights? I think this is also a family issue that ought to be a concern to everybody.

Over the past several years, there have been a number of cases throughout the country that have involved claims of fetal rights. They have generally involved a balancing of the right of the fetus to live, to be born versus the right of the mother to continue to live. They usually arise in cases where the mother's health is in some kind of jeopardy or the mother's life is in some sort of jeopardy. Hospitals have sought and obtained court orders (I think there have been a total of 15 cases to date) ordering a caesarean on a woman in order to deliver the fetus. I don't know about other people in this House but I find that rather astounding in this day and age and in this country that a court can intervene in a family situation and order that a woman be operated on in order to deliver her baby. This is sort of the flip side of what some people might have thought was at stake here because of the references made earlier as to whether this is an abortion bill. I think the only connection in all of this is whether or not this really has to do with a woman's right to make a decision in the context of her needs and her family's needs about how to handle her own pregnancy. I just feel that we cannot stop people from taking this bill and going to court. For example, the Klein case, although it was a reversed situation and was done in the case of Angela Carter in Washington, D.C., where the hospital sued to intervene and ordered a caesarean and the result was, both the fetus and the mother died within a few days after that decision. In both of those cases, the husband, the wife and the family all agreed that it was not appropriate to have a caesarean or in the other case an abortion. This was court intervention and I find this totally distracting. I think this says nothing about the sincerity of people who want to create this cause of action. It says nothing about how terribly tragic the loss is for the parents. What this says to me is that when we go to comfort one set of parents, we should be very careful not to be creating a nightmare for other sets of parents. I submit that that is what we are doing if we pass this legislation. I think we have not finished working through and that there might be better ways to increase the relief available if people feel that that is appropriate for those parents in this situation.

For those reasons, I would urge you to reconsider if you voted against us in the past on this and vote to indefinitely postpone this bill so people can continue to work out these kinds of problems.

We have a legislative process that allows us more than one chance to look at a bill and I think in this case, it is a good thing. I hope we will take advantage of it.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Where do I begin to try to answer and to correct the last several speakers who spoke for the motion to indefinitely postpone this bill.

They know what they have said and are only debating points -- rhetoric used to confuse an issue that is so difficult for us to discuss in this legislative body. They know the discussion that went on on L.D. 551 over the course of the Spring and now here almost on the first day of Summer, they know that the bill, as drafted, was not the bill that was reported out of committee, it was Committee Amendment

"A" -- you heard the distinguished Representative from South Portland, Representative Anthony, state that in response to the objections to the Representative from Brunswick, Representative Clark.

The concerns that were expressed in Representative Clark's statements to us this afternoon are exactly the concerns that were taken care of in Committee Amendment "A." The good Representative from Hallowell knows that those concerns were taken care of because she is a member of the committee which reported out the bill.

Let me quote to you from the Committee Amendment, which is the bill before us, the heart of the bill. "There is no cause of action under this subsection against a health care practitioner or health care provider for the wrongful death of an unborn viable fetus caused by an abortion if the abortion was permitted by law and required consent and was lawfully given. There is no cause of action under this subsection against a health care practitioner or health care provider for the wrongful death of an unborn viable fetus based on the alleged professional negligence of the health care practitioner or health care provider when the health care practitioner or health care provider did not know and, under the applicable standard of good medical care, had no medical reason to know of the pregnancy of the mother. This subsection may not be construed to permit or require any person to compel a pregnant woman to undergo medical treatment to benefit the unborn viable fetus. This subsection does not have criminal statutes." That's what this bill is that we have before us. On June 8th, this is the bill that we passed to be engrossed and sent to the other body.

In the meantime, we had discussions in the hallways with the Maine Women's Lobby, those who opposed this bill and others and we took their concerns, those of us who were the proponents of this legislation, and met them with Senate Amendment "A" which is now part of this bill as adopted. There is no cause of action under this section and I am quoting, "The wrongful death of an unborn viable fetus, if neither the mother nor the father of the fetus is alive at the time that proceedings under this title are commenced." That is so only the mother and father can have proceedings and can benefit from this type of court action.

We have met every question that has been asked by the opponents of this legislation and made a good effort to take their considerations and draft them into legislation and vote on them. They have been voted because we adopted Senate Amendment "A" last week. I find it cruel and unusual that we can bring back, over and over again, arguments are that are no longer before this bill that has no substance in law, only to raise emotional arguments that this is a Right-to-Life bill and ought to be killed because it is such. I find it unfortunate and unappealing to have to debate that type of forum and the idea that is before us, as the Representative from Hampden so wonderfully explained, is to allow for a mother and father to have some sort of action against someone who was so neglectful as to cause the death of that unborn child and to rob them of the family that they seek to create. Why is that such an abominable thought for us to consider this afternoon? We allow court action on so many frivolous and unnecessary things in this state but when it comes to family and children as we heard discussed earlier this afternoon on another bill, we find that we don't want to give them the benefit of the doubt of allowing the courts to use the system to help our families stay together. Is there an end in sight to this type of cold, tragic logic?

I urge you from the bottom of my heart to vote against that motion to indefinitely postpone so that we can finally enact this bill and send it on to the Governor eventually.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: It is always difficult to evaluate emotion. I cannot believe that the gentleman from Augusta does not believe his arguments are emotional. I think one of the things that distresses me the most about the debate, especially some of Representative Paradis' comments, are about the Senate Amendment.

Let me give you a hypothetical -- the same kind of hypothetical Justice Wathen was giving in his opinion when he was titillating the legislature to do something about it, a case which he couldn't persuade his brethren on the Law Court to agree with him about. If you had a situation in which this charming little child was the type that the Representative from Hampden was talking about, who was of movie star quality immediately after birth and perhaps the fourth of five children and the mother and father went to the TV station to take advantage of a large-sized TV contract and all three were killed on the way home -- I am going to have to strike that -- if this mother was possessed of a viable fetus and was in that position and there were the three children living at home, this amendment would cut out that right. That right obviously is just as important to other members of the family, to the siblings of the destroyed viable fetus, because all you are talking about is money. It seems to me as though all the amendment does -- and this is the thing that bothers me -- is to recognize what the Law Court said and that is, that there is an emotional distress argument that is available to the parents. The Senate Amendment does nothing except say that only the mother or father can recover. I find that strange because it works against the kind of family argument that the Representative from Augusta is talking about and that is the difficulty. We are dealing with a family arrangement that isn't logically laid out in the law. We are best left with the law as it was.

You remember that Justice Wathen was the same Justice that attempted to reverse 300 years of common law because of his feelings in the Moody Beach Case. So, I don't know that we need to be focused on just what the Law Court tells us we ought or ought not to do. I think we ought to evaluate this case on what it does. What it does is it creates another kind of complicated litigation. It creates the numbers of cases that the Representative from Hallowell, Representative Farnsworth, talked about when she talked last week.

I urge you to vote with them and the Representative from Fryeburg, with whom I am pleased to agree this afternoon. It seems to me as though this is the kind of legislation we don't need because all it does is lead to litigation and it isn't going to help the family one bit. It focuses on an unborn child who is viable and a mother and father who must survive an automobile accident in order to recover. It doesn't seem to me as though it does anything and it doesn't seem to me it needs to be the law of Maine.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bath, Representative Holt.

Representative HOLT: Mr. Speaker, Men and Women of the House: I wish to say something brief as a woman, a mother of five, and a retired nurse. The talk of sense of loss here is quite out of place. I don't believe any of us is anti-life, I think we are

all pro-life. I think the worst sense of loss over the loss of a potential human being that I saw in my practice as a visiting nurse or as a nurse in the operating room or delivery room was the case of a woman who had wanted a baby for 20 years and finally became pregnant. I had to carry that little bit of tissue that looked like a little fish to the treatment room when she lost it. I will never forget the grief, the sense of loss. So, please do not be misled or led up the garden path of legal entanglement which this bill will surely get us into. I dread the thought of all the things that are being done to women now -- forced surgery and that sort of thing will surely follow. Be careful of the precedent we are setting. I intend to vote for indefinite postponement and I am a sensitive, loving, pro-life woman.

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Hastings of Fryeburg that L.D. 551 and all accompanying papers be indefinitely postponed.

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 Dore of Auburn. 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 Hastings of Fryeburg that L.D. 551 and all accompanying papers be indefinitely postponed. Those in favor of that motion will vote yes, those opposed will vote no.

ROLL CALL NO. 109

YEA - Adams, Aikman, Allen, Anderson, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Constantine, Daggett, Dellert, Donald, Farnsworth, Farnum, Foss, Foster, Garland, Graham, Greenlaw, Gurney, Hale, Handy, Hanley, Hastings, Heesch, Hichborn, Hoglund, Holt, Jackson, Joseph, Ketover, Kilkelly, Larrivee, Lawrence, Lebowitz, Libby, Look, Lord, Mahany, Marsano, Marsh, McGowan, McKeen, McPherson, Mills, Mitchell, Norton, O'Dea, Oliver, Pederson, Pendleton, Pines, Priest, Rand, Reed, Rolde, Rydell, Sherburne, Simpson, Skoglund, Small, Stevens, P.; Stevenson, Strout, B.; Swazey, Townsend, Webster, M.; Wentworth.

NAY - Aliberti, Anthony, Bailey, Bell, Boutillier, Cahill, M.; Carroll, J.; Carter, Cashman, Clark, H.; Conley, Cote, Crowley, Curran, Dexter, Dipietro, Duffy, Dutremble, L.; Erwin, P.; Farren, Gould, R. A.; Gwadosky, Hepburn, Hickey, Higgins, Hussey, Hutchins, Jacques, Jalbert, LaPointe, Lisnik, Luther, MacBride, Macomber, Manning, Marston, Martin, H.; McCormick, McHenry, McSweeney, Melendy, Merrill, Michaud, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pineau, Plourde, Pouliot, Richard, Richards, Ridley, Rotondi, Ruhlin, Seavey, Sheltra, Smith, Stevens, A.; Strout, D.; Tamaro, Tardy, Telow, Tracy, Tupper, Walker, Whitcomb, The Speaker.

ABSENT - Nadeau, G. G..

PAIRED - Dore, Mayo.

Yes, 74; No, 74; Absent, 1; Paired, 2; Excused, 0.

74 having voted in the affirmative, 74 in the negative, with 1 absent and 2 having paired, the motion to indefinitely postpone did not prevail.

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

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

The SPEAKER: The pending question before the House is passage to be enacted.

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 Dore of Auburn. If she were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 110

YEA - Aliberti, Anthony, Bailey, Bell, Boutilier, Cahill, M.; Carroll, J.; Carter, Cashman, Clark, H.; Conley, Cote, Crowley, Curran, Dexter, Dipietro, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Gould, R. A.; Gwadosky, Hepburn, Higgins, Hussey, Hutchins, Jacques, Jalbert, LaPointe, Lisnik, Luther, MacBride, Macomber, Manning, Marston, Martin, H.; McCormick, McGowan, McHenry, McSweeney, Melendy, Merrill, Michaud, Murphy, Nadeau, G. R.; Nutting, O'Dea, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pineau, Plourde, Pouliot, Richard, Richards, Ridley, Rotondi, Ruhlin, Seavey, Sheltra, Smith, Stevens, A.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Tracy, Tupper, Walker, Whitcomb, The Speaker.

NAY - Adams, Aikman, Allen, Anderson, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Constantine, Daggett, Dellert, Donald, Farnsworth, Foss, Foster, Garland, Graham, Greenlaw, Gurney, Hale, Handy, Hanley, Hastings, Heesch, Hichborn, Hickey, Hoglund, Holt, Jackson, Joseph, Ketover, Kilkelly, Larrivee, Lawrence, Lebowitz, Libby, Look, Lord, Mahany, Marsano, Marsh, McKeen, McPherson, Mills, Mitchell, Moholland, Norton, Oliver, Pederson, Pendleton, Pines, Priest, Rand, Reed, Rolde, Rydell, Sherburne, Simpson, Skoglund, Small, Stevens, P.; Stevenson, Strout, B.; Townsend, Webster, M.; Wentworth.

ABSENT - Nadeau, G. G.

PAIRED - Dore, Mayo.

Yes, 76; No, 72; Absent, 1; Paired, 2; Excused, 0.

76 having voted in the affirmative, 72 in the negative, with 1 being absent and 2 having paired, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

The following items appearing on Supplement No. 12 were taken up out of order by unanimous consent:

PASSED TO BE ENACTED  
Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 to Fund a Capital Grants Program to Solid Waste Regional Commissions and Municipalities to Invest in Recycling Equipment and Facilities (H.P. 497) (L.D. 677) (C. "A" H-608)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 113 voted in favor of same and 5 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED  
Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$4,400,000 for Sewerage Facilities Construction (H.P. 801) (L.D. 1113) (C. "A" H-607)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 109 voted in favor of same and 5 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED  
Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 to Protect Ground Water Quality and Public Health Through the Cleanup and Closure of Municipal and Abandoned Solid Waste Landfills (H.P. 968) (L.D. 1346) (C. "A" H-610)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 113 voted in favor of same and 2 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED  
Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Commit State Support of Affordable Housing (H.P. 1255) (L.D. 1754) (H. "A" H-537)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being a Constitutional Amendment, and a two-thirds vote of the House being necessary, a total was taken. 111 voted in favor of same and 8 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED  
Emergency Measure

An Act to Provide a Special Adjustment for Hospitals Having Unusually Low Financial Requirements per Case (S.P. 382) (L.D. 1018) (C. "A" S-317)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Implement, Administer and Enforce the United States Emergency Planning and Community Right-to-Know Act of 1986 (S.P. 540) (L.D. 1475) (C. "A" S-307)

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. 108 voted in favor of the same and 8 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act Providing for the Development of a Proposal for the Delivery of Substance Abuse Programs Throughout the State (S.P. 563) (L.D. 1566) (C. "A" S-306)

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. 115 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Modify the Recruitment and Retention Adjustment Process (S.P. 589) (L.D. 1651) (C. "A" S-291)

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

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Create the Deer Isle Consumer-owned Water Utility (S.P. 629) (L.D. 1723) (C. "A" S-319)

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. 111 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.

**ENACTOR  
Emergency Measure  
Later Today Assigned**

An Act to Establish a Budget Committee for Kennebec County (S.P. 592) (L.D. 1669) (C. "A" S-323)

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

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

**ENACTOR  
Emergency Measure  
Tabled Unassigned**

An Act to Continue the Strategic Training for Accelerated Reemployment Program (S.P. 606) (L.D. 1700) (C. "A" S-322)

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

On motion of Representative Gwadosky of Fairfield, tabled Unassigned pending passage to be enacted.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Amend the Teacher Retirement System Laws to Allow Contributions for Associates in Education (S.P. 643) (L.D. 1735) (C. "A" S-312)

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

**PASSED TO BE ENACTED  
Emergency Measure**

An Act Concerning the Public Utilities Commission (S.P. 649) (L.D. 1744) (C. "A" S-313)

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.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Provide a Special Adjustment for Border Hospitals Experiencing Economic Hardship (H.P. 196) (L.D. 276) (C. "A" H-598)

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. 114 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**ENACTOR  
Emergency Measure  
Tabled Unassigned**

An Act to Authorize the Department of Human Services to Implement the Provisions of the United States Family Support Act of 1988 (H.P. 767) (L.D. 1071) (C. "A" H-592)

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

On motion of Representative Gwadosky of Fairfield, tabled Unassigned pending passage to be enacted.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Amend the Municipal Limit for School Debt (H.P. 927) (L.D. 1293) (C. "A" H-587)

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. 104 voted in favor of the same and 6

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

**ENACTOR**

**Emergency Measure  
Later Today Assigned**

An Act to Change the Method of Approving Equivalent Instruction in Home Schools (H.P. 949) (L.D. 1317) (C. "A" H-544)

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

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

**ENACTOR**

**Emergency Measure  
Later Today Assigned**

An Act to Study the Creation of a State Fund to Provide Workers' Compensation Insurance Coverage to Employers' (H.P. 952) (L.D. 1320) (C. "A" H-578)

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.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Clarify the Subdivision Laws (H.P. 1174) (L.D. 1628) (H. "A" H-614 to C. "A" H-521)

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. 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.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Establish a Program to Prevent Spousal Impoverishment (H.P. 1224) (L.D. 1696) (C. "A" H-594)

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

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Create the Maine Family Development Foundation (H.P. 1226) (L.D. 1698) (C. "A" H-597)

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

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Amend the Laws Pertaining to the Commission on Biotechnology and Genetic Engineering (H.P. 1252) (L.D. 1751) (C. "A" H-613)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**

**Emergency Measure**

Resolve, to Create the Commission to Study the Establishment of a State and Tribal Partnership to Encourage Economic Development (S.P. 607) (L.D. 1701) (C. "A" S-294)

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. 109 voted in favor of the same and 1 against and accordingly the Bill was finally passed, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**

**Emergency Measure**

Resolve, to Establish the Commission to Study the Use of Professional Strikebreakers (H.P. 530) (L.D. 715) (C. "A" H-548)

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. 110 voted in favor of the same and 23 against and accordingly the Bill was finally passed, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**

**Emergency Measure**

Resolve, to Study International Trade Opportunities and Foreign Ownership and Investment in Maine (H.P. 735) (L.D. 1012) (C. "A" H-582)

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

**FINALLY PASSED**

**Emergency Measure**

Resolve, Concerning the Development of a New Master Plan for the Capitol Area (H.P. 1172) (L.D. 1626) (C. "A" H-551)

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. 127 voted in favor of the same and 3 against and accordingly the Bill was finally passed, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**

**Emergency Measure**

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1989 (H.P. 1261) (L.D. 1757)

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. 120 voted in favor of the same and 3 against and accordingly the Bill was finally passed, signed by the Speaker and sent to the Senate.

**ENACTOR**  
**Emergency Measure**  
**Later Today Assigned**

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1989 (H.P. 1262) (L.D. 1758)

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

On motion of Representative Mayo of Thomaston, tabled pending final passage and later today assigned.

**PASSED TO BE ENACTED**  
**Emergency Measure**

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1989 (H.P. 1263) (L.D. 1759)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and 7 against and accordingly the Bill was finally passed, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Amend the Laws Governing the Operation of a Watercraft While Under the Influence (S.P. 84) (L.D. 84) (C. "A" S-309)

An Act to Amend the Laws Relating to Truants, Dropouts and Alternative Programs (S.P. 121) (L.D. 187) (C. "A" S-290)

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

**PASSED TO BE ENACTED**

An Act to Promote Prompt and Peaceful Settlements of Labor Disputes (S.P. 385) (L.D. 1021) (C. "A" S-296)

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

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: We spoke about this bill the other day, there is no need to prolong the discussion a great deal. I simply want to call your attention to a song that is familiar to all of us from years ago called "What A Difference A Day Makes" and I would say that in the amendment on L.D. 1021, it is "What A Difference A Word Makes." If you happen to have the amendment before you, it changed the original bill when it says that "the Governor has the authority to," it removed those words and says "the Governor shall." I would submit to you that that is a clear cross-over of the line of the division of powers. I hope you will vote no on enactment.

Mr. Speaker, I respectfully 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 Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief, we went through this the other day. But again, seeing my fellow over on the other side who calls it jumping the line, I call it check and balance.

I would appreciate your support.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 111

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Di Pietro, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Swazey, Tammara, Tardy, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Dore, McKeen.

Yes, 96; No, 53; Absent, 2; Paired, 0; Excused, 0.

96 having voted in the affirmative and 53 in the negative with 2 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Simplify Reporting Requirements for Workers' Compensation Insurers and Self-insurers (S.P. 396) (L.D. 1040) (C. "A" S-298)

An Act to Allow the Board of Harbor Commissioners for Portland Harbor to Charge Service Fees (S.P. 404) (L.D. 1048) (C. "A" S-324)

An Act to Amend Commercial Driver License Laws (S.P. 460) (L.D. 1245) (C. "A" S-311)

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

**ENACTOR**

**Tabled Unassigned**

An Act to Expand the Maine Job Training Partnership Program (S.P. 462) (L.D. 1247) (C. "A" S-310)

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

On motion of Representative Gwadosky of Fairfield, tabled Unassigned pending passage to be enacted.

**PASSED TO BE ENACTED**

An Act to Establish the Mental Health Advisory Committee on Medicaid (S.P. 467) (L.D. 1252) (S. "B" S-288 to C. "A" S-184)

An Act to Amend and Improve the Laws Relating to Education (S.P. 481) (L.D. 1302) (C. "A" S-292)

An Act to Protect Maine Workers from Needless Injury and Death by Creating the Offense of Work-related Manslaughter (S.P. 508) (L.D. 1396) (S. "A" S-318 to C. "A" S-276)

An Act to Amend and Clarify the Laws Relating to Services to Infants and Young Children, Ages 0 through 5, Who are Handicapped or at-risk for Developmental Delay (S.P. 509) (L.D. 1397) (C. "A" S-299)

An Act Amending the Law Governing the Maine Committee on Aging (S.P. 544) (L.D. 1515) (H. "A" H-561 to C. "A" S-251)

An Act to Clarify the Provisional Payments Provision of the Workers' Compensation Law Regarding Disability and Medical Payments (S.P. 555) (L.D. 1558) (C. "A" S-314)

An Act to Improve the Sardine Inspection and Grading Programs (S.P. 562) (L.D. 1565) (C. "A" S-297)

An Act to Establish an Advisory Committee on Home Health (S.P. 580) (L.D. 1642) (C. "A" S-287)

An Act To Protect Maine Businesses against Workers' Compensation Insurer Rate Gouging (S.P. 590) (L.D. 1652) (C. "A" S-302)

An Act to Amend the Maine Coastal and Inland Surface Oil Clean-up Fund to Provide for Adequate Resources to Respond to a Major Coastal Oil Spill (S.P. 645) (L.D. 1738) (C. "A" S-303)

An Act to Create the Maine Jail Industries Authority (S.P. 647) (L.D. 1742) (H. "A" H-552)

An Act Relating to the Collection of Specified Health Care Information (H.P. 32) (L.D. 32) (C. "A" H-596)

An Act Concerning Boating and Other Water-based Activities (H.P. 59) (L.D. 80) (C. "A" H-579)

An Act to Further Protect Freshwater Wetlands (H.P. 129) (L.D. 173) (C. "A" H-603)

An Act to Strengthen Land Use Management in Maine's Unorganized Territories (H.P. 183) (L.D. 248) (S. "A" S-325 to C. "A" H-571)

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

**ENACTOR**

**Later Today Assigned**

An Act to Improve Public Access to and Participation in Decisions Made by Quasi-Municipal Corporations (H.P. 595) (L.D. 813) (C. "A" H-543)

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.

**PASSED TO BE ENACTED**

An Act Relating to Drug Testing (H.P. 609) (L.D. 833) (C. "A" H-599)

An Act to Harmonize the Adjustable Rate Transaction Requirements of the Maine Consumer Credit Code with the Federal Truth-in-Lending Act and to

Repeal Sunrise Provisions (H.P. 626) (L.D. 849) (C. "A" H-560)

An Act to Provide for the Licensing of Counseling Professionals and to Create a Board of Counseling Professionals Licensure (H.P. 684) (L.D. 936) (C. "A" H-541)

An Act to Restrict the Use of Lobster Trap Dipping Solutions (H.P. 823) (L.D. 1155) (H. "A" H-553 to C. "A" H-485)

An Act to Revise the Medical Examiner Act (H.P. 905) (L.D. 1262) (C. "A" H-584)

An Act to Protect Children from Illegal Tobacco Sales (H.P. 970) (L.D. 1348) (S. "A" S-304 and S. "B" S-305 to C. "A" H-518)

An Act Authorizing and Directing the Department of Inland Fisheries and Wildlife and the Bangor Water District to Develop a Plan for the Protection of Sunapee Charr Habitat at Floods Pond (H.P. 985) (L.D. 1363) (C. "A" H-557)

An Act to Improve Retraining Opportunities for Maine Workers (H.P. 999) (L.D. 1388) (C. "A" H-567)

An Act Relating to Compensation for Hearing Losses Under the Workers' Compensation Act (H.P. 1008) (L.D. 1406) (C. "A" H-550)

An Act Concerning Complaints Against Health Care Practitioners (H.P. 1009) (L.D. 1407) (C. "A" H-546)

An Act to Increase the Authority of the Department of Human Services to Assess the Medical and Active Treatment Needs of Individuals Applying for Admission to Nursing Homes (H.P. 1012) (L.D. 1410) (S. "A" S-301 to C. "A" H-461)

An Act to Prohibit Dumping of Sanitary Waste in Inland Waters (H.P. 1060) (L.D. 1482) (C. "A" H-574)

An Act to Increase the Penalty for Destruction of Law Enforcement Canines (H.P. 1092) (L.D. 1525) (H. "A" H-570 to C. "A" H-487)

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

**PASSED TO BE ENACTED**

An Act to Establish a Commission on State Finance (H.P. 1113) (L.D. 1546) (H. "A" H-558 to C. "A" H-423)

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

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

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: In the past debate on this item, I have spoken against enactment because I think it will pose several problems. Perhaps the most significant problem is, if the Legislative and Executive Branches are not able to agree on the revenues that are to be forecast, there can be a significant delay in the enactment of the budget. Traditionally, this function has been held in the Executive Branch and I think that is where it ought to stay. So, I urge you to vote no on enactment of this bill.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I will again try, for the third time, to explain the contents of this proposed piece of legislation. It is an advisory commission and it is non-binding on the Governor. I have said it twice before and hopefully maybe this time people will be listening. It is non-binding, it is strictly an advisory commission that will put out quarterly forecasts and it is structured so that both members of the Executive Branch and the Legislative Branch will be sitting together and hopefully, if they

arrive at a forecast, both sides will agree that they were arrived at in the most expeditious manner and both sides will buy the results and prevent us from being embroiled in prolonged debate as to which estimate we should follow.

I would hope you would support the motion to enact this legislation.

Representative Webster of Cape Elizabeth requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 112

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hickey, Hognlund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tamaro, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Dipietro, Dore, Farnum, McPherson, Nadeau, G. G.; Tardy.

Yes, 95; No, 50; Absent, 6; Paired, 0; Excused, 0.

95 having voted in the affirmative, 50 in the negative, with 6 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Regulate Development Along Certain Water Bodies (H.P. 1125) (L.D. 1568) (C. "A" H-566)

An Act Concerning the Teaching of Cosmetology (H.P. 1126) (L.D. 1569) (C. "A" H-583)

An Act Regarding the Training Costs of Police Officers (H.P. 1136) (L.D. 1579) (C. "A" H-585)

An Act to Protect the People of Maine from Exposure to Radioactive Waste (H.P. 1141) (L.D. 1584) (C. "A" H-605)

An Act to Establish Greater Communication in the Rule-making Process and to Provide Better Standards for the Adoption of Rules (H.P. 1144) (L.D. 1587) (C. "A" H-588)

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

ENACTOR

Later Today Assigned

An Act to Establish the Bureau of Juvenile Corrections (H.P. 1147) (L.D. 1590) (H. "A" H-569 to C. "A" H-496)

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.

PASSED TO BE ENACTED

An Act to Provide for Appeal of Certain Decisions of Counselors Employed by the Driver Education Evaluation Program (H.P. 1151) (L.D. 1605) (C. "A" H-554)

An Act to Ensure Regular Attendance for All Maine School Children (H.P. 1168) (L.D. 1622) (C. "A" H-555)

An Act to Strengthen an Injured Employee's Right to Rehabilitation and to Improve the Workers' Compensation Rehabilitation System (H.P. 1176) (L.D. 1630) (C. "A" H-586)

An Act to Exempt Contracts Supplementing the Civilian Health and Medical Program of the Uniformed Services from the Mandated Benefits for Substance Abuse and Mental Illness (H.P. 1230) (L.D. 1715) (C. "A" H-547)

An Act Relating to Transportation of Hazardous Materials by Railroad (H.P. 1231) (L.D. 1716) (C. "A" H-580)

An Act to Promote Greater Access to Health Screening (H.P. 1238) (L.D. 1729) (C. "A" H-565)

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

PASSED TO BE ENACTED

An Act Regarding Special Seasonal Agency Liquor Stores (H.P. 1246) (L.D. 1739) (C. "A" H-602)

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

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

Representative MACBRIDE: Mr. Speaker, Men and Women of the House: I now have the amendment to this Bill and I withdraw my objections.

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

PASSED TO BE ENACTED

An Act to Ensure a Cooling-off Period before the Hiring of Permanent Replacement Workers during a Labor Dispute (H.P. 1259) (L.D. 1756)

An Act Transferring Concurrent Legislative Jurisdiction over Brunswick Naval Air Station (H.P. 1266) (L.D. 1761)

An Act to Amend the Workers' Compensation Self-insurance Law (H.P. 473) (L.D. 638) (C. "A" H-595)

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.

FINALLY PASSED

Resolve, to Clear Title or to Secure a Release of Property from the State (H.P. 1149) (L.D. 1603) (C. "A" H-545)

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

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

The Chair laid before the House the following matter: Report of the Committee on Labor reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-293) on Bill "An Act to Clarify the Definition of Seasonal Workers under the Workers' Compensation Law" (S.P. 550) (L.D. 1521) Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-293) as amended by Senate Amendment "A" (S-321) thereto which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" as amended by Senate Amendment "A" thereto.

Representative Carter of Winslow moved that L.D. 1521 be tabled until later in the day pending adoption of Committee Amendment "A" as amended by Senate Amendment "A" thereto.

Subsequently, Representative Carter of Winslow withdrew his motion to table.

Whereupon, Committee Amendment "A" as amended by Senate Amendment "A" thereto was adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in concurrence.

The Chair laid before the House the following matter: Divided Report Majority Report (9) of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-295) and Minority Report (4) "Ought Not to Pass" on the same bill, on Bill "An Act Relating to Notice of Injury for Purposes of Workers' Compensation and Occupational Disease Claims" (S.P. 318) (L.D. 855) which was tabled earlier in the day and later today assigned pending the motion of Representative Gwadosky of Fairfield that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 855 is the continuation of what I am sure seems to you an infinite series of divided reports from Labor that didn't make the calendar last Friday. I have a little bit of good news for you, to quote a famous television personality, "we hold in our hand" the last divided report.

L.D. 855 proposes to virtually eliminate the present 30 day requirement for filing a notice of injury if the claimant can demonstrate what is called excusable neglect.

What is the intent of this bill? Apparently the intent is to ensure that no employee's claim is

denied because of that employee's failure to file a timely notice of injury.

What are the unintended consequences of this bill? First, there will be many more claims (I suspect) filed after the injury from 30 days to as many as 180 days later. This will, I am sure, inevitably result in more disputes, more litigation, more attorneys fees, more administrative expense, and a cost to the system.

Is L.D. 855 necessary? I would submit that it is not. Already this session, the Labor Committee has reported and this House has accepted L.D. 348, a unanimous report from the Committee on Labor which says that an injured employee may give proper notice of injury to any doctor, nurse or emergency medical personnel who are on duty at the work site. A majority of the Labor Committee, of which I was one, supported L.D. 1285 which allows an appeal in case of manifest error or injustice. So, I would submit to you that employees are protected, they were protected by the present code. This House has passed two bills which will increase those protections and L.D. 855 is simply unnecessary.

Why is there a 30 day notice requirement? Two or three very good reasons. The first and foremost being that it is to assure and ensure early an effective assessment treatment of injured workers which will result in their more expeditious return to work, less lost wages, less medical expenses, everyone is a winner.

The second reason for the 30 day requirement is to allow the employer to correct any hazard that may have existed that caused the employee's injury so that other employees will not be injured by the same hazard, also a very important and necessary goal.

The third reason for the 30 day notice requirement is to allow the investigation of the claim to go forward while memories of the injured worker and coworkers are still fresh and a more thorough and correct investigation can take place.

Extending this deadline by six months defeats all these goals. It essentially says, yes, we have a 30 day notice requirement but if you don't file, that is okay, you've got another six months. This removes the sense of responsibility from the employee, it will undoubtedly increase litigation in the system, will benefit, I suspect, only the attorneys who bring that litigation forward, will delay the system, does not benefit in any way the injured workers and therefore I submit it is a bad idea on several fronts and I would urge you to defeat the pending motion so that we may accept the Minority "Ought Not to Pass" Report.

Mr. Speaker, I respectfully request a roll call.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The previous speaker has alluded to a probable abuse of this law were we to pass it. Nothing could be further from the truth. This law would probably apply -- and I have asked the Workers' Compensation Commission -- to maybe five cases a year. But, five cases that do deserve Workers' Compensation but these people, due to something beyond their control, an excusable neglect could, under the amendment, not the bill, qualify for Workers' Compensation which would be indisputable that these people should be receiving Workers' Compensation. The employer may agree that they should be receiving Workers' Compensation but because of this 30 day rule, they cannot.

Ladies and gentlemen, we have passed legislation to allow excusable neglect on the part of the employer for the 44 days on the same thing, notice of

controversy. If the employer wishes to file a notice of controversy, that employer must do it within 44 days. But, there are and there remains an excusable neglect which means that the employer did not receive proper information or the employer did not know. There are excusable circumstances that are allowed. So, what we are doing here, ladies and gentlemen, is doing the same thing for the employee who, through no fault of their own -- for instance an employee who has received an injury on let's say day 28, his mother or father dies, lives outside the state and the employee goes to the funeral and is unable, through no fault of his own, to report that injury in time for that 30 days. That person could, and I say could, that doesn't mean he automatically gets it, could receive a fair hearing from the Workers' Compensation Commission and could probably qualify for Workers' Compensation payment. That is all we are trying to do. And, as I said before, it would probably affect maybe five cases in the whole state of Maine a year, maybe five cases.

Above that qualification, the attorney or the employee must have valid, good faith reason for failing to provide a timely notice and to fail to provide a timely notice, automatically the employee loses his benefits. So we are saying, let's do for the employee what we have done for the employer, allow for excusable neglect and have a commission hearing.

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 Gwadosky of Fairfield that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

## ROLL CALL NO. 113

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Di Pietro, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Høglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Swazey, Tannaro, Tardy, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Rutland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Norton, Nutting, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Ridley, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Allen, Dore, Farnum.

Yes, 94; No, 54; Absent, 3; Paired, 0; Excused, 0.

94 having voted in the affirmative, 54 in the negative, with 3 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-295) was read by the Clerk.

Representative Carter of Winslow offered House Amendment "A" (H-619) to Committee Amendment "A" (S-295) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk and adopted.

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

Under suspension of the rules, the Bill was read the second time, 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.

The Chair laid before the House the following matter: Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1990 and June 30, 1991" (EMERGENCY) (H.P. 123) (L.D. 160) which was passed to be engrossed as amended by Committee Amendment "A" (H-577) as amended by House Amendment "B" (H-606) thereto in the House on June 16, 1989 (Came from the Senate with the Bill and accompanying papers recommitted to the Committee on Transportation in non-concurrence) which was tabled earlier in the day and later today assigned pending further consideration.

Subsequently, the House voted to Adhere.

The Chair laid before the House the fifth matter of Unfinished Business:

An Act to Make the Department of Marine Resources Responsible for Coastal Search and Rescue (H.P. 670) (L.D. 918) (C. "A" H-531)

TABLED - June 16, 1989 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Coles of Harpswell, under suspension of the rules, the House reconsidered its action whereby L.D. 918 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-531) was adopted.

The same Representative offered House Amendment "A" (H-630) to Committee Amendment "A" (H-531) and moved its adoption.

House Amendment "A" to Committee Amendment "A" 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.

The following item appearing on Supplement No. 14 was taken up out of order by unanimous consent:

## PAPER FROM THE SENATE

The following Joint Resolution: (S.P. 657)

JOINT RESOLUTION COMMEMORATING THE BICENTENNIAL ANNIVERSARY OF THE TOWN OF VINALHAVEN

WHEREAS, some of the most scenic and special of the islands located along the coast of Maine are

those located some fifteen miles east of Rockland which comprise the Town of Vinalhaven; and

WHEREAS, these isles, discovered by the English explorer Martin Pring in 1603 and named by him as the "Fox Islands," have been continuously settled by generations of hardy island families since 1765; and

WHEREAS, these inhabitants have long been noted for their humanity and benevolence to strangers and their industry has crafted a succession of fine coastal schooners and the blue-gray granite used in the construction of the Brooklyn Bridge and the Cathedral of St. John the Divine in New York; and

WHEREAS, title to these islands was granted to the inhabitants by the General Court of the Commonwealth of Massachusetts on May 13, 1786, and as the Town of Vinalhaven was incorporated by the General Court on June 25, 1789; and

WHEREAS, these islands have been carefully tended and stewarded by their residents who, over the intervening two centuries, have preserved the unique character of this rugged and beautiful part of our State's coast; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fourteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the 200th anniversary of the Town of Vinalhaven, and to commend the inhabitants and officials of this town for the success which they have achieved together for two centuries, and to extend to each our sincere hopes and best wishes for continued achievement over the next 200 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

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

The following item appearing on Supplement No. 13 was taken up out of order by unanimous consent:

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-628) on Bill "An Act to Authorize Cumberland County to Raise up to \$25,000,000 for Construction of a New Jail Facility for Cumberland County" (H.P. 1258) (L.D. 1755)

Signed:

Senators: ESTY of Cumberland  
BERUBE of Androscoggin  
CARPENTER of York

Representatives: HANLEY of Paris  
BEGLEY of Waldoboro  
McCORMICK of Rockport  
WENTWORTH of Wells

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-629) on same Bill.

Signed:

Representatives: JOSEPH of Waterville  
ROTONDI of Athens  
DAGGETT of Augusta  
HEESCHEN of Wilton  
LARRIVEE of Gorham  
GWADOSKY of Fairfield

Reports were read.

Representative Joseph of Waterville moved that the House accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Members of the House: I would like to say why the majority are against this bill and that is because there is an amendment which says that the county must negotiate with the town in which the jail is to be located.

I remember, and probably some of you do too, the battles we used to have on the Cumberland County Library. So, we only ask that if they want that amendment on, they put it on the ballot with the rest of the questions.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The amendment before you came about simply because there is a regional waste system that has been started by a number of Cumberland County communities. They have all agreed to give service fees to towns such as Scarborough, South Portland, Portland and, in the future, Gorham when Gorham decides to go into the area of dealing with stumpage. Currently under the RWS agreement in Cumberland County, there is Harrison, Yarmouth, Freeport, North Yarmouth, Pownal, Cumberland, Falmouth, South Portland, Portland, Cape Elizabeth, Scarborough, Windham, Bridgton, Casco and Gray. All these towns are paying service fees to three towns now and one more town probably within the next year and a half. Three other towns have asked to come into RWS or have talked to RWS Board of Trustees, those towns are Brunswick, Raymond and Naples.

I am not quite sure what other towns except for Westbrook and Gorham -- Standish, Baldwin and Sebago have not been in RWS. There is a precedent set here.

Let me explain a couple of other things. I sponsored this legislation along with Representative Strout, Representative Anthony and Representative Carroll because we are all on the Cumberland County Jail Committee and we have struggled for well over a year trying to find land that would be suitable for a jail. I would venture to say there isn't many communities in the state really looking for or wanting a jail. I know we had a hearing back around the 1st of March on a couple of sites, one of which was on the border of both Portland and Falmouth and a number of residents from the Portland and Falmouth area, especially the Falmouth area, spoke out against having a jail in their immediate facility.

The two areas that we will be looking at will be in Gorham and the other one in Portland. Those areas are crucial because of one thing, especially one thing, and that is sewers. For the veterans who were here back in 1985 and remember we voted to allow a bond issue to go out to deal with what we call the Max at Warren -- remember, the thing that has kept that from being constructed is because of the lack of sewers. I would say that when you are building a facility with 350 beds you have the capability of 400 because 20 percent of those beds are going to be large enough to double cell, which will give you approximately 400, there are not many places that a septic tank is going to take in outside areas that deal with sewers.

The two areas that the committee decided on (one in Gorham and one in Portland) both have sewers, but it is industrial land, land that will be taken off the tax roll if Cumberland County decides to buy that land. It would be land that the people in both of those communities (if it goes into either one of them) will not be able to utilize, it is good industrial land.

I ask, before you vote, to stop and think if you had 10 to 15 acres of industrial land in your community, would you want to have anything come from it? There is not much that you can say about the Cumberland County Jail that is going to bring business into Gorham or in Portland. You can maybe make that argument like some have made (which I disagree) about the State House and the State House complex but I really feel that we are giving a disservice to the community of Augusta because we are not giving them service fees. But you can't tell, as the Representative from Thomaston has indicated on a number of occasions, you can't tell me what business a jail is bringing into Portland or Gorham. So, for that reason, by taking 10 to 15 acres of prime industrial land, that is the reason why I asked the committee to put on the amendment in the committee workshop because I think if we are going to provide the services of fire department, plowing the roads or having an ambulance service there to take those people who get sick and need to be transported to the hospitals, I think it is only right that those communities that have those particular institutions have the right to have service fees. I don't say that because it is going into my community guaranteed, it is not, we have not made the final decision. It could be going into Gorham. There is a good piece of land in Gorham and Gorham is the number two spot. The reason why we haven't decided is we have to look at soils and a number of other things. So, this certainly would benefit Gorham as well as it would benefit Portland. With that, I would hope you remember that 20 towns currently in the RWS system have agreed to pay service fees and I think it is only right that if those same towns agree to pay service fees for a waste that goes to Portland, South Portland, Scarborough and Gorham, that if they want a jail, they ought to pay for the service fees for the jail.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: There are just two simple words that separate these two reports, the Majority Report and the Minority Report. The two simple words are "shall" and "may." The Majority Report says "may" negotiate and the Minority Report says "shall" and that is what your decision has to be. On the Majority Report, there is a gentleman on that Report from Cumberland who felt very, very strongly that it should be "may" and I believe that is one of the main reasons that many of us signed on on that report.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Curren.

Representative CURREN: Mr. Speaker, Men and Women of the House: A couple of things that have been said that prompt me to get up, one being that the Cumberland County Jail may be put in Gorham. I am one of those local people down in Cumberland County, who think that the jail really should be in the county seat. I guess everyone doesn't feel that way but if some people feel that the jail may be in Gorham, some others may also feel that it may or should be in Westbrook. That gives me a great deal of concern. Those two words that are so little different in length but so much different in meaning mean a great deal to us, the difference between "may" and "shall." I think that if, for an example, someone should suggest that the jail be in Westbrook, then I would have great empathy with any other town or city in the State of Maine where a jail may be put.

The word "shall" should not be in the legislation. There is a great deal of cost that goes with maintaining a jail, there is a great deal of

cost, as Representative Manning has said, in installing sewers for instance and plowing and road work and all that sort of thing. Westbrook, even though we are listed as a rich town, meaning that we get less than 30 percent of the education subsidy, we are no richer than anyone else.

I think I speak for almost everyone representing almost every town in the State of Maine when I say that, if there is a county jail put in your town or my town, there "shall" be some negotiations for paying for those services.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Larrivee.

Representative LARRIVEE: Mr. Speaker, Members of the House: I would urge your support of the Minority Report, it was a seven to six report so there was a fine line dividing minority and majority in that report.

I would remind you that it is the property taxpayer who is going to bear the burden of this facility coming into our community, whether it is Representative Manning's community or my community, for the additional fire and police and services that are required. The property taxpayer should not have to bear that cost, that cost should be spread out amongst the people who are receiving the benefit, and that is the entire Cumberland County. So, I urge you to support the Minority Report.

Representative Gurney of Portland requested a roll call vote.

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

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

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

ROLL CALL NO. 114

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Conley, Constantine, Cote, Crowley, Curran, Daggett, Dipietro, Dutremble, L.; Erwin, P.; Farnsworth, Graham, Greenlaw, Gurney, Gwadosky, Handy, Heeschen, Hickey, Hoglund, Holt, Hussey, Jacques, Joseph, Ketover, Kilkelly, Larrivee, Lawrence, Lisnik, Look, Luther, Mahany, Manning, Marsh, Marston, Mayo, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pineau, Plourde, Pouliot, Priest, Rand, Reed, Richard, Rolde, Rotondi, Rydell, Sheltra, Simpson, Smith, Stevens, P.; Strout, B.; Swazey, Tammaro, Telow, Townsend, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Carroll, J.; Coles, Dellert, Dexter, Donald, Duffy, Farren, Foss, Foster, Garland, Gould, R. A.; Hanley, Hastings, Hepburn, Hichborn, Higgins, Hutchins, Jackson, Lebowitz, Libby, Lord, MacBride, Macomber, Marsano, McCormick, Merrill, Norton, Paradis, E.; Parent, Pederson, Pendleton, Pines, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, D.; Tracy, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Carter, Dore, Farnum, Hale, Jalbert, LaPointe, Martin, H.; McGowan, McPherson, Murphy, Nutting, Ridley, Ruhlin, Skoglund, Tardy.

Yes, 87; No, 49; Absent, 15; Paired, 0; Excused, 0.

87 having voted in the affirmative, 49 in the negative, with 15 being absent, the Minority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "B" (H-629) was read by the Clerk and adopted.

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

The following item appearing on Supplement No. 15 was taken up out of order by unanimous consent:

COMMUNICATIONS

The following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

June 19, 1989

TO: The Honorable Members of the 114th Legislature

I am returning without my signature or approval H.P. 456, L.D. 621, "AN ACT Concerning Unemployment Benefits for Lockouts."

Current employment security law disqualifies individuals from receiving immediate unemployment compensation benefits when their unemployment is caused by either a strike or a lockout. This bill proposes to change that law to allow individuals involved in a lockout to collect unemployment benefits immediately. I oppose this legislation for the same reasons that I rejected identical legislation during the First Regular Session of the 113th Legislature.

First, this legislation would disrupt the delicate balance that must be maintained between management and labor by removing a key incentive for labor to forestall a lockout or to negotiate towards a prompt settlement should one occur. The economic costs of labor disputes can have a severe impact on individuals, companies and communities. We must, therefore, maintain a fair and equitable balance in order to prevent or resolve quickly any such dispute.

Second, if a lockout affecting a substantial number of employees occurred, the payment of unemployment compensation benefits to individuals under this bill would cause a severe drain on Maine's Unemployment Compensation Fund.

Finally, current law does allow the payment of unemployment compensation benefits during a labor dispute once the company returns to substantially normal operations. This would occur in the case of a strike or a lockout. There is no justification to treat lockouts differently from strikes for the purpose of payment or nonpayment of unemployment compensation benefits.

I know that we all have the same goal to encourage the labor/management harmony that promotes growth and prosperity. Due to my continued belief that this legislation would adversely impact the collective bargaining process and have a potentially deleterious impact on the Unemployment Trust Fund, I must once again reject this legislation and respectfully request you to sustain my veto.

Sincerely,  
S/John R. McKernan, Jr.  
Governor

Was read and ordered placed on file.

The accompanying Bill "An Act Concerning Unemployment Benefits for Lockouts" (H.P. 456) (L.D. 621) (C. "A" H-353).

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

Representative WEBSTER: Mr. Speaker, Men and Women of the House: I would like to make a few brief comments on why the Governor's veto of this bill ought to be sustained.

Current employment security law disqualifies individuals from receiving immediate unemployment compensation benefits when their unemployment was caused either by a strike or a lockout. This bill proposes to change that law to allow individuals involved in a lockout to collect unemployment benefits immediately. The second objection is that if a lockout affecting a substantial number of employees occurs, the payment of unemployment compensation benefits to individuals under this bill would cause a severe drain on Maine's Unemployment Compensation Fund. So, I hope that you will vote to sustain the Governor's veto.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I do hope that you can override the Governor's veto. He states in his veto that there is a delicate balance -- ladies and gentlemen, I believe that we do not live in a dream world, we all know that there is no delicate balance, the balance is totally one-sided. Presently, your employer says, "You take this or leave it, if you leave it, we are going to replace you." That is the situation in this state today. As sad as it may be, that is the way it is. There is no fair balance. The Governor said that this will create a severe drain on Maine's unemployment fund -- I am curious as to why he said a severe drain. Does the Governor know something that the majority of this House doesn't know? Does the Governor know that there are going to be lockouts in this state? We are not saying that we want to pay unemployment to people who wish to go on strike, we are saying we want to pay people unemployment benefits who want to work, people who want to work. That is the criteria for unemployment, you must be willing and able to work. These people are willing and able to work but the employer says, no, you aren't coming into work. That is what we are dealing with.

When you deal with a strike, it is a totally different picture. The employee says, I do not want to work under these conditions, I do not accept your contract. It is the choice of the employee so that employee cannot qualify for unemployment because he or she has refused work. The people we are talking about are willing and able to work.

While I am on my feet, the employers of this state that do lock out their employees and do have strikes, they can deduct this from their income tax, we can't. The working people of the state cannot deduct this under income tax but the employers can. They can claim millions of dollars lost. They are having both ends and the middle and it is not fair at all. There is no balance.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: You know I wasn't surprised to see this come across my desk, and Governor, I hope you are listening downstairs because none of us are surprised, particularly Democrats.

You talk about unions negotiating in good faith, you talk about the employer -- unions today do not have an upper hand, I think it is the employer who has an upper hand when you negotiate a contract. Today, when the unions go into negotiate their

contract, they are not negotiating any fair clause within that contract, any benefits or whatever it might be, the only thing they are doing today is just keeping what they have. They know if they vote to go on strike, they are going to be out on the bricks. They know if they go out on the bricks, there are people who will take over their jobs. Ask yourself Governor, if you are listening downstairs, how do you collective bargain in good faith that way? How do you go to the contract table and collective bargain knowing there are people out on the street ready to take your job?

In Millinocket, we have multi-unions, we have more than one union. we have unions up there that elect to go on strike and unions that don't elect to go on strike -- they are out the door receiving nothing. Is that fair? Ask yourself Governor, is that fair? I hope when you vote tonight, try to override the Governor, Republican or Democrat, but think about the working people.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: Just a few short moments ago, we had a roll call vote on a law that would probably have assisted my area if it had been on the books two years ago. It dealt with the exact same concern where the Governor says he cares. He states that the bill would cause a severe drain on Maine's Unemployment Compensation Fund. In the Jay strike, when he failed to intervene, when he failed to use the authority he had, he cost the state over \$3.3 million dollars out of the unemployment trust fund, the trust fund that more than 90 percent of the Maine small businesses had to build -- that is the burden he put on them. I find it almost humorous that he uses this as an argument as to why he vetoed this piece of legislation.

There is a difference between a strike and a lockout. A lockout -- the workers want to work, the employers don't want them in the plant. In a lockout, the employees have no strike benefits. I just find it so hard to believe that he is so worried about a trust fund that he depleted over \$3 million dollars worth because he failed to act.

Please vote for the workers of the state.

After reconsideration, the pending question before the House is "Shall this Bill become a law notwithstanding the objections of the Governor?" Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 115V

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Dipietro, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins,

Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsh, McCormick, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Dore, Farnum, Marsano, McPherson.

Yes, 98; No, 49; Absent, 4; Paired, 0; Excused, 0.

98 having voted in the affirmative and 49 in the negative with 4 being absent, the Governor's veto was not sustained. Sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

Representative Marsano of Belfast was granted unanimous consent to address the House:

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I just received this roll call and this printout shows that I was absent or didn't vote, it shows me with an X and I voted and I believe my light was on throughout. I voted against the matter and I can't understand how this result could be recorded in that fashion. I would ask that the vote be changed to reflect my vote.

The SPEAKER: The Chair would advise the Representative that no vote has ever been changed in this body after completion of the roll call. The Chair would advise the Representative that, on the computer, when I checked the computer to find out the number of people voting, there were four registered as not voting.

Representative MARSANO: Mr. Speaker, there are people here who tell me that my light was on, which was the case. I voted no, I was here throughout, as you well know.

The SPEAKER: The Chair did not look at the votes to see whose light were on and not on. That is the responsibility of the individual legislator. The Chair cannot make a correction and the Representative is fully aware that that has never been done.

Representative MARSANO: I would like the Record to show, Mr. Speaker, that I was here and that I voted against the matter and, in my view, the machine is wrong and the totals, therefore, are wrong.

The SPEAKER: The matter is not before this body.

The Chair laid before the House the third matter of Unfinished Business:

Bill "An Act Concerning the Maine Railroad Excise Tax" (S.P. 235) (L.D. 565) (H. "A" H-562 to C. "A" S-277)

TABLED - June 15, 1989 by Representative ALLEN of Washington.

PENDING - Motion of Representative MURPHY of Berwick to Indefinitely postpone Bill and accompanying papers.

Representative Murphy of Berwick withdrew her motion to indefinitely postpone L.D. 565 and all accompanying papers.

On motion of Representative McGowan of Canaan, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-277) as amended by House Amendment "A" (H-562) thereto was adopted.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-562) to Committee Amendment "A" (S-277) was adopted.

On further motion of the same Representative, House Amendment "A" was indefinitely postponed.

The same Representative offered House Amendment "B" (H-631) to Committee Amendment "A" (S-277) and moved its adoption.

House Amendment "B" (H-631) to Committee Amendment "A" (S-277) was read by the Clerk.

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

Representative MACOMBER: I would like to pose a question through the Chair.

On Page 2 of the amendment, lines 13 through 23, I am not quite sure if I am reading this correctly but in the language that is in those particular ten lines, the July 1, 1987 date -- does that mean that the railroad will restore the crossings that they have already taken up?

The SPEAKER: The Representative from South Portland, Representative Macomber, has posed a question through the Chair to Representative McGowan who may respond if he so desires.

The Chair recognizes the Representative.

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment that I am offering to this legislation is solely designed to reflect the change that Representative Macomber is referring to. It also drops the fiscal note from \$500,000 annually to \$200,000 annually. It is meant to recognize the concerns that were raised by Representative Murphy, Representative Rotondi and several other members of this body in regard to access to lands that were leased or owned by constituents or individuals that had to cross railroad tracks in order to get back and forth. This section of the bill deals with that. The question posed by Representative Macomber regarding the effective date of July 1, 1987, I believe, will result in the railroad not replacing these particular railroad crossings but identifying the individuals and the crossings that were there prior to July 1, 1987.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

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

Public Law 1985, Chapter 477, which was passed in the House, there was a section of it in House Amendment "B" to Committee Amendment "A" that says on Line 15, the House Amendment was H-445 in that order for a tax date to qualify for an exemption -- the date was July 1, 1981. Does this nullify this public law?

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

The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the question is no, it doesn't. The amendment that the gentlelady refers to is an amendment that I put on on a tax exemption bill for railroad equipment two or three sessions ago and the effect of that date is the same effect that is sought by the date in Representative McGowan's amendment and that is to grandfather the crossing in the situation that they were in at a particular date. The effect of that is the same but does not nullify the section that the gentlelady referred to.

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

Representative HOGLAND: Mr. Speaker, Men and Women of the House: Can someone explain to me

exactly what "recognizing the crossings" means? I was under the impression that they were going to replace the crossings. Recognizing them -- is it looking at them, are they going to allow these people to cross? That is what the issue is all about. I would like to have an answer.

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

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I believe that recognition of the crossing is the acknowledgment of the railroad that the crossing was there and acknowledges the rights of the individual to utilize that crossing prior to that effective date that is in Section E of the bill and the amendment. That is my understanding, that it is the acknowledgment of the railroad crossing and that person's ability to have access over that crossing.

Subsequently, House Amendment "B" to Committee Amendment "A" was adopted.

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

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

The Chair laid before the House the following matter: An Act to Establish a Budget Committee for Kennebec County (S.P. 592) (L.D. 1669) (C. "A" S-323) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Jacques of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 1669 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-323) was adopted.

The same Representative offered House Amendment "A" (H-634) to Committee Amendment "A" (S-323) and moved its adoption.

House Amendment "A" (H-634) to Committee Amendment "A" (S-323) 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.

On motion of Representative Dellert of Gardiner, the House reconsidered its action whereby (S.P. 348) (L.D. 920) Bill "An Act to Implement Recommendations Proposed by the Blue Ribbon Commission on the Regulation of Health Care Expenditures" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-326) was passed to be engrossed.

On motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-326) was adopted.

The same Representative offered House Amendment "A" (H-637) to Committee Amendment "A" (S-326) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk.

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

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

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: I hope that you will not indefinitely postpone this amendment. The issues being studied by this commission are critical to the health and welfare of Maine citizens. House Amendment "A" (H-627) is the reconstruction of the appointments of the legislative leadership and the executive branch equally and it is well-balanced in selecting appropriate groups to study the issues of out-patient adjustment and marginal cost rates. These selections will be most beneficial for all those who need our health services and I would ask for a roll call.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I will make this very brief but I do want to talk about a little broader issue than just presentation of the amendment and I want to give a little history to the members of the House about the committee deliberations on this section dealing with the composition of the commission.

This was part of a very comprehensive bill that we worked long and hard on. There were a lot of compromises made, a lot of people who didn't get everything they wanted but got some of what they wanted and the committee came out with the unanimous report and I think that is due by work of both of our chairs, the House and Senate side. I feel that, at this time, it is inappropriate to amend this unanimous committee report.

Having said that, in terms of the amendment and going to the heart of it, it asks that the Governor have a place in terms of naming Representatives to this body in the study that we had as part of L.D. 920's unanimous report. I find that ironic considering that, through all of the meetings and we had many long meetings on this bill, not once did we have the Governor's representatives come to us with any proposals at any time nor show their face in our committee room in terms of deliberations on this bill. I don't think I am the most partisan member in this body but I would have to say that this was a very important bill. If the Governor feels that it is as important as it is to present it at this time, language for him to have a role in determining who is going to be on the Commission's study, I think he is just a little bit too late. It seems to me if a legislature is going to conduct a study on planning CON issues which are very important, there is no doubt about that, that he will have ample opportunity to voice his concerns through the Department of Human Services Commissioner or that person's designee. I think it is high time that this body make a statement to the Governor that if he wants to have participation in particular issues that are of great importance to this state, that the time and place is in front of the committees in a cooperative effort during all the work sessions and hearings that occur in those committees and not on the floor of the House, especially on a unanimous committee report.

I would hope that you would vote in favor of the indefinite postponement.

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 Manning of Portland that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 116

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Dipietro, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Swazey, Tammaro, Telow, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Donald, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Hichborn, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth.

ABSENT - Dexter, Dore, Farnum, Jackson, McPherson, Strout, D.; Tardy, Whitcomb.

Yes, 96; No, 47; Absent, 8; Paired, 0; Excused, 0.

96 having voted in the affirmative and 47 in the negative with 8 being absent, the motion did prevail.

Subsequently, Committee Amendment "A" was adopted.

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

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 16 were taken up out of order by unanimous consent:

**REPORTS OF COMMITTEES  
Ought to Pass as Amended**

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Extend the Exemption for Sales Tax for Certain Instrumentalities of Interstate or Foreign Commerce" (H.P. 438) (L.D. 603) reporting "Ought to Pass" as amended by Committee Amendment "B" (H-633)

Report was read and accepted, the Bill read once. Committee Amendment "B" (H-633) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 1251) (L.D. 1750) Bill "An Act to Establish Finance Committee Districts and Procedures for Aroostook County" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-632)

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

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

The following items were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

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

(S.P. 630) (L.D. 1724) Bill "An Act to Correct Errors and Inconsistencies in the Laws Relating to Boards and Commissions" (EMERGENCY) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-333)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-333)

Under suspension of the rules, Report was read and accepted and the Bill read once.

Committee Amendment "A" (S-333) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended in concurrence.

(S.P. 511) (L.D. 1399) Bill "An Act to Amend Certain Motor Vehicle Laws" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-335)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-335)

Under suspension of the rules, Report was read and accepted and the Bill read once.

Committee Amendment "A" (S-335) was read by the Clerk and adopted and the Bill assigned for second reading, Tuesday, June 20, 1989.

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

(Off Record Remarks)

Representative Brewer of Boothbay Harbor was granted unanimous consent to address the House.

Representative BREWER: Mr. Speaker, Men and Women of the House: This past weekend, the State of Maine, Department of American Legion, held its 71st convention in the beautiful town of Boothbay Harbor

which is the boating capital of New England. There were approximately 1,500 to 2,000 veterans, their wives and friends.

The only real adversity that we had during the convention was the weather, but I guess you have got to expect that here in Maine. Never in the history of the 100 years of Boothbay Harbor have we been afforded the distinction of having the Governor, the two Senators from Washington, two Congressional Representatives and the President of the Maine Senate, the Speaker of the House and two Representatives from this body. I was very proud as Chairman of the Convention to have these representatives there to receive an award from the Department of American Legion for their distinguished meritorious service that they received from the American Legion for their outstanding contribution in promoting the benefits for the veterans of the State of Maine. They spoke briefly and I must say that they were outstanding. As the recipients of these awards, they were very well received. I think they are to be commended, Speaker of the House, John Martin; Representative John Jalbert from Lisbon Falls and Representative Ruth Joseph from Waterville. (applause)

On motion of Representative Chonko of Topsham, Adjourned until Tuesday, June 20, 1989, at nine o'clock in the morning.