

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME V

SECOND REGULAR SESSION

March 20, 1990 to April 14, 1990

Index

HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 7, 1988 to April 14, 1990

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
43rd Legislative Day
Thursday, April 5, 1990**

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

Prayer by Father Louis Berube, Holy Family Church, Sanford.

Pledge of Allegiance.

The Journal of Thursday, March 29, 1990, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333

March 29, 1990

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Insisted and asked for a Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Exempt Medical Malpractice Captive Insurance Companies from the Requirement to Obtain Certificates of Authority to Transact Insurance in the State of Maine" (S.P. 705) (L.D. 1843).

The President appointed on the part of the Senate the following:

Senator THERIAULT of Aroostook
Senator BUSTIN of Kennebec
Senator COLLINS of Aroostook

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

March 29, 1990

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 the following upon the recommendation of the Joint Standing Committee on Business Legislation:

Joanna Dennis of Waterville for reappointment to the Maine Real Estate Commission.

Sincerely,

S/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

The following Joint Resolution: (S.P. 996)

JOINT RESOLUTION RECOGNIZING THE TENTH ANNIVERSARY

OF THE ASSASSINATION OF ARCHBISHOP OSCAR A. ROMERO

WHEREAS, Archbishop Oscar A. Romero was brutally assassinated 10 years ago while celebrating Mass in the cathedral in San Salvador, El Salvador; and

WHEREAS, Archbishop Romero was an outspoken champion of the civil, human and spiritual needs of the people of El Salvador; and

WHEREAS, Archbishop Romero devoted himself to improving the life of the poor, speaking out against government repression and institutional violence, and supporting the efforts of the people of El Salvador to triumph over poverty and political oppression; and

WHEREAS, Archbishop Romero was also an outspoken critic of the death squads who are accused of orchestrating the disappearance and death of many of the 60,000 civilian casualties of the civil war; and

WHEREAS, Archbishop Romero's unflagging and outspoken opposition to the military domination of the people of El Salvador led to his brutal and untimely assassination; and

WHEREAS, the memory of Archbishop Romero is testimony of the courage, perseverance and dedication of the Salvadoran people to peace, progress and self-determination; and

WHEREAS, March 24, 1990, marked the 10th anniversary of the assassination of Salvadoran Archbishop Oscar A. Romero, courageous champion of human rights, civil liberties and peace and justice for all of the people of El Salvador; and, now, therefore, be it

RESOLVED: That We, the Members of the 114th Legislature of the great and sovereign State of Maine, now assembled, pause in a moment of silence to remember and honor the life of Archbishop Oscar A. Romero, the principles for which he stood and to call for the establishment of human rights in El Salvador and the facilitation of a negotiated settlement of the civil war.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$4,000,000 to Finance Major Improvements and Renovations at State Parks and Historic Sites" (S.P. 995) (L.D. 2461)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for Construction of Water Pollution Control Facilities" (S.P. 997) (L.D. 2464)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$8,000,000 for Capital Construction and Improvements Necessary to Continue Marine Research and Public Health Operations at McKown Point in Boothbay Harbor" (S.P. 998) (L.D. 2465)

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

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

Resolve, to Establish a Select Committee on Comprehensive Tax Reform (EMERGENCY) (S.P. 999) (L.D. 2466)

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

Was referred to the Committee on Taxation in concurrence.

Ought to Pass as Amended

Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-633) on Bill "An Act to Amend Maine's Underground Oil Storage Law" (S.P. 632) (L.D. 1725)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as

amended by Committee Amendment "A" (S-633) as amended by Senate Amendment "A" (S-634) thereto.

Report was read and accepted, the Bill read once.

Committee Amendment "A" (S-633) was read by the Clerk.

Senate Amendment "A" (S-634) to Committee Amendment "A" (S-633) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, I move indefinite postponement of Senate Amendment "A" (S-634).

The SPEAKER: The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to oppose that motion and ask for a roll call.

First of all, as a member in my first term of the Audit and Program Review Committee, we worked on the original underground tanks legislation. The second term, as a member of the Banking and Insurance Committee, I sponsored the bill to require the removal of underground tanks on a schedule, which is now in place. Now in my third term as a member of the Energy and Natural Resources Committee, we are dealing with a third issue before the committee, which is the problem of lack of insurance for small operators and the problems of litigation and the amount of time that it takes to resolve an oil or gasoline leak.

The committee dealt with this problem by creating a fund, it is a one million dollar fund, it has deductibles to participate in it and it has a cap, we worked out compromises on third-party damages and who could use the fund. What this amendment you are being asked to indefinitely postpone would do is to -- the committee reported out the bill to exclude the major oil refineries from being able to participate in the fund and any subsidiary of the major oil refineries. I don't think that that makes a lot of sense for two reasons. The first reason was the fund was created to help people who could not get insurance, that was the primary goal of this program, the bill that is before us.

The second point is, I think we are losing sight of the argument here, which is to create a simple procedure or process when there is a leak, you can go to the fund, get the money to clean up, restore, and pay the economic damages that are caused by contamination. By excluding the oil refineries from this bill, what we are essentially doing is opening up another can of worms of litigation, of delays, of costs that we really don't know. I have, as I am sure that many of you do, had gasoline stations, people that have underground tanks and had those tanks leak. I am sure you have had calls regarding the problems that those people or the people whose wells have been contaminated by those kinds of situations. If this amendment goes through, I believe this bill will be a simple and inexpensive process to administer and one that will, hopefully, solve the problem that we have faced now in my three terms on three different committees dealing with this problem. The problem is what to do with bare steeled tanks that have been in the ground for a long time that could have millions of dollars worth of costs to people who are either contaminated by the leak or people who have to replace and restore those tanks and try to run businesses where the margin of profit of selling gasoline isn't all that great.

I would hope that you would vote against the indefinite postponement of this Senate Amendment and pass this bill so that it includes all people who are

in the business of running and operating underground storage tanks.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I hope you will go along with indefinite postponement of this Senate Amendment. It was a unanimous report. This bill does help clean up the spills. We also heard the problem, and it is a problem of small gas stations getting insurance, that's what this fund does.

Mobil and Exxon are self-insured, they can get insurance, that is what this amendment would do, it would allow them to go into the fund. It is not fair, it is not right, so that is why I hope you will go along with me in the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: I, too, hope you go along with the indefinite postponement of this amendment.

We worked very hard on this bill. At first the refineries were included in the bill but, in looking at the cost of including it, it was outrageous. It was very, very high. In view of the fact that they were self-insured and had insurance, we decided we should go with the people that couldn't get insurance, who have had insurance and were cancelled because of the ability of the company that insured them to pay off the claims. So, this bill does help the smaller and medium-sized dealers and I think it is a very good bill and I hope you go along with the indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Woodland, Representative Anderson.

Representative ANDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the last two speakers, this bill was set up to cover small Mom and Pop operations, the amendment changes the whole thing and covers as far up as the refineries that are capable of buying their own insurance.

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

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

I would like to know where the money is coming from and who is going to pay it?

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

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: It is coming from the refineries. The consumer, ultimately, is going to be paying this because more than likely they will be passing it on to the consumers and that is why the committee had a very, very hard problem of including your Mobil, your Exxon, your big refineries, in this fund. I can't see the taxpayers of the State of Maine paying into a fund that does two things, help provide insurance for the little guy and also helps to clean up the problem as far as leaks. That is why I have a major problem with including Mobil or Exxon, it is not fair, it is not right and I hope you go along with the indefinite postponement of this Senate Amendment.

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

Representative MOHOLLAND: Mr. Speaker, I would like to pose another question through the Chair.

I understand that it will probably be a penny to a penny and a half for a gallon to do this. Will that come out of all the people or just the ones that own the stations?

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

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: It ultimately will be passed on to the consumer at the pump. It is roughly about a penny to three-fourths of a penny.

The SPEAKER: The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Men and Women of the House: I just want to respond to two points that have been made. By excluding the refineries, we are somehow not treating this issue fairly -- in fact, what this fund is is a no-fault type of insurance and by excluding a certain kind of industry, meaning the oil refineries, whether their trade name is Exxon, Mobil or whatever, that is the unfairness here. I think most of you who know me know that I wouldn't be standing up advocating for a major oil company or industry if I didn't believe that what I was doing was fair and was economical. By excluding the oil refineries, we are not adding or subtracting from the cost of the fund, the fund is established by assessment on the amount of oil that is brought into our country, either by truck or by barge. The penny, almost a penny, not quite, a gallon of gasoline that people have to pay at the pump to create this fund will not be any more or any less by having the major oil refineries participate in this program.

My argument, which I am stating again, for having them in is to help those people who are contaminated or have a problem, use the fund. If we leave the oil refineries out, you are creating the same old problems of litigation and delays.

One example in my own district involves a gasoline station whose tanks leaked. That gasoline station was at one time owned by Mobil Oil Corporation. It then was owned by Downeast Energy, which is not a small company in and of itself. They are able to participate in this fund. The neighbor to that gasoline station, a restaurant, contacted me about two years ago saying they were having problems trying to get money to replace their drinking water supply and it was hurting their business. The issue and what caused the delay was, when did the tanks start leaking, when Mobil Oil owned the tanks or when Downeast owned them? As you know, once that gasoline gets into the ground, it stays there for a long time, various kinds of earth sediments, whatever, and shifts the gasoline into the groundwater table and moves it around in different places and at different times. Cleaning up and restoring it is difficult enough, trying to identify where it came from is difficult enough, but trying to determine who owned the tanks that were leaking is just crazy. That situation took almost seven years to clear up because of the litigation involved, because of the science involved, because of the experts and costs that were involved.

The fund is, again, with everyone participating in it is simple, it is no more costly to administrate, the estimates that the Bureau of Insurance gave us in establishing the fund where we had to raise so much on gasoline, so much on oil, is

not going to be changed by whether we exclude the major oil refineries. If you will look at the companies that are able to participate in the fund, they are some of the largest companies in the State of Maine and the only difference is, whether they own a refinery somewhere in New Jersey or some other part of the world. Major oil distributors, major oil companies are all able to participate in this fund and it just does not make sense to exclude them. I just hope when you hear questions about fairness, you will think about -- is it fair to create a fund, no-fault insurance program, and then exclude someone? That is not fair. As far as cost, it is not going to cost anymore or less to have them participate but it will remove the delays and it will be the final step that I hope will solve this problem that I have worked on for six years now in three different processes to solve this problem with leaking underground tanks.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: Today is going to be your lucky day, you are going to have four Divided Reports from Energy and Natural Resources and none of them are going to be very easy and I am sure you will be sick of all this before the day is over.

If we can get back to what this bill does, this bill originally was brought into our committee because some of the small gasoline stations around the state could not buy insurance on their underground tanks for the damages that would be incurred if they leaked. That is why the bill was brought in. Insurance companies are cancelling the policies and we were told that in some of the more rural districts of the state that these small gas stations would not be able to be kept open so people would have to travel farther and go to the bigger communities to buy gas. We looked at making a system into play that would help those small gas station owners and the small distributors have that insurance.

The original scheme was to come up with a million dollar insurance fund to be paid for by all the consumers, no matter where they bought it. I didn't vote to pass this on to the smaller consumers very easily because the city of Waterville has a lot of gas stations. Probably if three or four of those close, we won't notice it very much but, in some of your towns, you may have one or two gas stations and if you have noticed over the past years, you probably had five or six at one time and now you are down to one or two and you are going to pay whatever they have on the sign. So, we looked at the best way to protect the small guys. When you throw the refinery in there, you must remember this, you have a million dollar cap -- remember, Exxon Valdez spill alone has cost over \$2 billion and will probably cost another billion before they are done, not millions but billions. This fund has a million dollar cap on it. One refinery, (they are all self-insured) with a small spill would wipe out the million dollars, bang, gone. Then -- what about the small people who we designed this fund to take care of? They are out of luck. The problem is, they cannot get insurance and the refineries can. I am sure the refineries would love to get on the piggyback of this fund that you and I are going to be paying for to protect the small gas station owners to provide the competition in your towns to provide the services to you.

This is a terrible amendment. It basically guts the bill. It will not speed things up, the big oil refineries will continue to tie it up in the courts

because they have the money to do so. That is not a convenience that the small gas station owners have.

If you want to help the Exxon Valdezes, if you want to help the big refineries, then you vote to keep this amendment on. If you want to help the small gas station owners and operators of Mom and Pop stores that are the backbone of the rural areas to provide gas, vote to kill this amendment. It is a bad amendment for them and it is a good amendment for the big companies. The choice is up to you.

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 Michaud of East Millinocket that Senate Amendment "A" (S-634) be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Marston.

Representative MARSTON: Mr. Speaker, Members of the House: As usual, Representative Jacques and Representative Michaud are very well versed. But on this particular issue, I can speak to you and I will try to reduce this thing to simple terms. I have been doing business with the large and the small the best part of my life. Let me tell you, you don't have to be concerned about leveling the playing field, being fair to the majors, the biggies, the ones with the refineries because my experience has been, they really don't play that way with these little places that the majority version is trying to save.

Three-quarters of a cent of a gallon will be passed on to the consumer. Listen to this part, this could be understood from someone out of the business that, yes indeed, every time the consumer drives up to the pump, he is going to pay three-quarters of a cent more a gallon for his gasoline. Not true. Out in the real world, here is how it will work -- if you do not support the condition that Representative Jacques and Representative Michaud spoke to so eloquently, the little small gas station in your particular town or on a side street in downtown Portland is going to be history. Hence, the places that are left for you to go get gas and your constituents to get gas, are going to be owned by Exxon, Mobil, the biggies. The price is going to be 10 cents a gallon. The people that keep the price competitive out there in the Maine market, which Maine is still the last bastion of free enterprise in the petroleum business, so you could be penny-wise and pound foolish if you decide not to support Representative Michaud's position. You would save three-quarters of a cent a gallon and you would actually pay nine and a quarter cents a gallon more for your gas as you drive to the pump.

I thought that should be clarified. Thank you.

Representative McGowan of Canaan, Representative Martin of Eagle Lake and Representative Marsh from West Gardiner were excused from voting pursuant to Joint Rule 10 and House Rule 19.

The SPEAKER: The pending question before the House is the motion of Representative Michaud of East Millinocket that Senate Amendment "A" (S-634) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 213

YEA - Adams, Aikman, Aliberti, Anderson, Anthony, Ault, Begley, Bell, Boutilier, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Curran, Daggett, Dellert, Dexter, DiPietro, Donald, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Handy, Nanley, Hastings, Heeschen, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holt, Hussey, Hutchins, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Lebowitz, Libby, Lisnik, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Marston, Martin, H.; Mayo, McCormick, McHenry, McKeen, McPherson, McSweeney, Melendy, Merrill, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pederson, Pendleton, Pineau, Pines, Plourde, Pouliot, Priest, Rand, Reed, Richard, Richards, Ridley, Rolde, Rotondi, Ruhlman, Rydell, Seavey, Sheltra, Skoglund, Small, Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

NAY - Hale, Simpson.

ABSENT - Allen, Bailey, Jackson, LaPointe, Larrivee, Sherburne.

EXCUSED - Marsh, McGowan, The Speaker.

Yes, 140; No, 2; Absent, 6; Paired, 0; Excused, 3.

140 having voted in the affirmative and 2 in the negative with 6 being absent and 3 excused, Senate Amendment "A" (S-634) was indefinitely postponed.

On motion of Representative Michaud of East Millinocket, tabled pending adoption of Committee Amendment "A" (S-633) and later today assigned.

Non-Concurrent Matter

Bill "An Act to Exempt Medical Malpractice Captive Insurance Companies from the Requirement to Obtain Certificates of Authority to Transact Insurance in the State of Maine" (S.P. 705) (L.D. 1843) on which the Majority "Ought Not to Pass" Report of the Committee on Banking and Insurance was read and accepted in the House on March 29, 1990.

Came from the Senate with that Body having insisted on its former action whereby the Minority "Ought to Pass" Report of the Committee on Banking and Insurance was read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-625) and asked for a Committee of Conference in non-concurrence.

On motion of Representative Rydell of Brunswick, the House voted to Insist and join in the Committee of Conference.

Reference is made to (S.P. 705) (L.D. 1843) Bill "An Act to Exempt Medical Malpractice Captive Insurance Companies from the Requirement to Obtain Certificates of Authority to Transact Insurance in the State of Maine"

In reference to the action of the House on April 5, 1990, whereby it Insisted and Joined in a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative RYDELL of Brunswick
Representative ERWIN of Rumford
Representative GARLAND of Bangor

Non-Concurrent Matter

Bill "An Act to Prohibit Family Exclusion Clauses in Automobile Insurance Policies" (H.P. 1598) (L.D. 2222) on which the Minority "Ought to Pass" as amended Report of the Committee on Banking and Insurance was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-1018) in the House on March 29, 1990.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Banking and Insurance read and accepted in non-concurrence.

Representative Marsano of Belfast moved that the House Insist and ask for a Committee of Conference.

Representative Garland of Bangor moved that the House recede and concur.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: I have intention of debating this bill which was debated at some length just a few days ago. I think you will remember the issue.

What I do wish to speak to this morning is the fact that, on many occasions late in the session, we have the opportunity to get together a Committee of Conference to see whether or not the work that has been done and generated both by the committee and the debate on the floor can create some resolution, which might be profitable.

One of the things that I would like to point out is that one of the people who is leaving this House for good at the end of this term is, for instance, my colleague from my own county, Representative Allen. I never had a chance to work with her on a substantive committee before. If this House should see fit to create a Committee of Conference and if there was one that was allowed, there is a good possibility that in the last days she would spend here. I would get a chance to discuss and debate with her a matter which is of such significance to me and to which I have discussed with her at some length.

I would simply ask you to look over the Calendar and you will notice that on 1-1, that was a Committee of Conference, the last item which just preceded this, that was a Committee of Conference -- differences between the House and the other body can occasionally be resolved in this fashion and I would hope that you would allow me that opportunity this morning.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Bangor, Representative Garland, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

58 having voted in the affirmative and 58 in the negative, the motion to recede and concur did not prevail.

Subsequently, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

COMMUNICATIONS

The following Communication: (S.P. 993)
114TH MAINE LEGISLATURE
March 29, 1980

Senator Barry J. Hobbins
Rep. Patrick E. Paradis
Chairpersons
Joint Standing Committee on Judiciary
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Leigh I. Saufley of Yarmouth for appointment as Judge, Maine District Court.

Pursuant to Title 4, MRSA Section 157, this nomination is currently pending before the Joint Standing Committee on Judiciary.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

The following Communication: (S.P. 994)
114TH MAINE LEGISLATURE
March 29, 1990

Senator Barry J. Hobbins
Rep. Patrick E. Paradis
Chairpersons
Joint Standing Committee on Judiciary
114th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated the following:

Pursuant to Title 4, MRSA Section 157, Honorable Alexander MacNichol of Cape Elizabeth for appointment as Judge, Maine District Court.

Pursuant to Title 4, MRSA Section 157, Leigh I. Saufley of Yarmouth for appointment as Judge-at-Large of the Maine District Court.

These nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

The following Communication:
DEPARTMENT OF CONSERVATION
State House Station 22
Augusta, Maine 04333
March 27, 1990

The Honorable Charles P. Pray
President of the Senate
Maine Senate
State House Station #3
Augusta, Maine 04333
The Honorable John L. Martin
Speaker of the House
Maine House of Representatives
State House Station #2
Augusta, Maine 04333
Senator Judy C. Kany, Chair
Joint Standing Committee on
Energy and Natural Resources
State House Station #3
Augusta, Maine 04333
Representative Michael H. Michaud, Chair
Joint Standing Committee on
Energy and Natural Resources
State House Station #2

Augusta, Maine 04333

Subject: Amendment to Chapter 10 of Land Use Regulation Commission Standards
Dear President Pray, Speaker Martin, Senator Kany & Representative Michaud:

On February 16, 1990, following public hearing, the Maine Land Use Regulation Commission adopted a limited moratorium on building and development activities on lands adjacent to a number of high value lakes in Maine's unorganized townships and plantations. This moratorium, enacted as an amendment to the Commission's Land Use Districts and Standards, Chapter 10, is effective until June 19, 1990, the date by which final lake management rules are expected to be adopted.

The purpose of the moratorium is to preserve the status quo on some 60 especially high value, undeveloped lakes (Representing 2% of the total number in the Commission's jurisdiction) for a brief period to enable the Commission sufficient time to hold public hearings and adopt new rules to implement the Commission's comprehensive lakes management program for lakes. Because these lakes are unique, having significant and outstanding natural resource values, the construction of even a very small number of buildings on these lakes could have a dramatic and permanent negative impact on the lakes and the goals and objectives of the lakes management program.

The Commission has proposed lakes management rules and scheduled public hearings to solicit public comments on the proposal. The hearings will be held on Thursday, April 26, 1990 in Millinocket and Friday, April 27, 1990 in Rangeley.

12 M.R.S.A. Section 685-A(8) specifies that amendments to the Commission's land use standards, upon adoption, shall become effective immediately but shall be submitted to the next regular or special session of the Legislature for approval or modification. If the Legislature fails to act, such standards shall continue in full force and effect.

This submission is to fulfill the Commission's requirements under 12 M.R.S.A. Section 685-A(8).

If you have any questions as you review the amendment, please do not hesitate to call me at 289-2631.

Sincerely,
S/David E. Boulter
Executive Director
Maine Land Use Regulation Commission

Was read and with accompanying papers referred to the Committee on Energy and Natural Resources.

The following Communication:
MAINE STATE RETIREMENT SYSTEM
STATE HOUSE STATION 46
AUGUSTA, MAINE 04333-0046

3 April 1990

Honorable John L. Martin
Speaker of the House of Representatives
State of Maine, Augusta
Dear Speaker Martin:

Enclosed herewith is a copy of the 1989 Annual Report of the Maine State Retirement System. The report is addressed to the members of the System and its publication is required by statute (5 MRSA, section 17102, sub-sect. 10).

Sincerely,
S/Jon A. Lund, Chairman
Board of Trustees
MAINE STATE RETIREMENT SYSTEM

Was read and with accompanying report ordered placed on file.

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Fund and Implement a Collective Bargaining Agreement with the Maine State Troopers Association" (EMERGENCY) (H.P. 1804) (L.D. 2475) (Presented by Representative FARREN of Cherryfield) (Cosponsored by Representative GREENLAW of Standish) (Committee on Appropriations and Financial Affairs had been 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.

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

PASSED TO BE ENGROSSED

WITHOUT REFERENCE TO COMMITTEE

Bill "An Act to Amend the Charter of the Quantabacook Water District" (EMERGENCY) (H.P. 1802) (L.D. 2473) (Presented by Representative FARREN of Cherryfield) (Cosponsored by Senator RANDALL of Washington) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.) (Committee on Utilities had been 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.

By unanimous consent, ordered sent forthwith to the Senate.

ORDERS

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

ORDERED, that Representative B. Carolyn T. Mahany of Easton be excused February 12, 14, 16 and March 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Cushman D. Anthony of South Portland be excused March 23 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Norman R. Paul of Sanford be excused March 26 for the duration of his illness.

AND BE IT FURTHER ORDERED, that Representative Theone F. Look of Jonesboro be excused March 26 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Peter Hastings of Fryeburg be excused March 28 for personal reasons.

Was read and passed.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following items:

Recognizing:
Richard Pelletier, a teacher at Bonny Eagle Junior High School in West Buxton, whose ambitious efforts to organize and direct the successful Pathfinder II goal oriented, high adventure program exemplify the spirit of Maine's dedicated teachers; (HLS 1250) by Representative GREENLAW of Standish. (Cosponsors: Representative LORD of Waterboro, Representative DONALD of Buxton, Senator TITCOMB of Cumberland)

On motion of Representative Greenlaw of Standish, was removed from the Special Sentiment Calendar.
Was read.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.
Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: Last week, the week before

and probably this week, we have seen an awful lot of schoolteachers in Augusta. At the same time, there were two schoolteachers who were back in their district trying to improve the Pathfinder II program that had been so successful the last two or three years.

If you are not acquainted with this program, it takes Junior High School children, mostly males, who have had a problem of one type or another and during the year, they are supposed to upgrade their image, their self-being and, as a reward, they are allowed to go on, like an Outward Bound trip.

Richard Pelletier and Peter Libby have devoted many hours to this program. Richard Pelletier happens to have a brother in the Speaker's district who is a priest and when the boys were looking for a place to go, the priest apparently was contacted. When they arrived to the area late at night, a schoolhouse room was furnished by someone in the Eagle Lake area so they could be prepared to go marching into an unknown camp in an unknown place. The next morning they proceeded and, Mr. Speaker, the people in my district and the people involved in this program would like to thank you for the help that you gave these people. I think your woodpile might be a little smaller than it was when you left last Fall but they had a good time.

Was passed and sent up for concurrence.

Recognizing:

Steve Knight, a running back for the Marshwood High School Hawks football team, recipient of the James J. Fitzpatrick Trophy, which is presented annually to the state's outstanding Class A player; (HLS 1262) by Representative FARNUM of South Berwick. (Cosponsors: Representative McPHERSON of Eliot, Senator CARPENTER of York, Senator ESTES of York)

On motion of Representative Farnum of South Berwick, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Mr. Speaker, Ladies and Gentlemen of the House: A little bit about Steve Knight. He is a Senior at Marshwood High School, a resident of South Berwick, in fact I had him in school, he received the James J. Fitzpatrick Trophy, which is presented annually to the State of Maine's outstanding Class A player. Steve is the 19th recipient of this Trophy. In his football career, he has had 3,190 rushings, 61 touchdowns and in the 1989 season, he had 1,448 rushings and 23 touchdowns.

Other honors — he was Captain of his team, he was on the All Conference Team for '87, '88, and '89. He was on the Allstate Team for '88 and '89. He was the Portland Telegram player for 1989. He was the U.S. Today football player for the year 1989 and he is the U.S. Today Athletic person for the year 1989. The Maine Sports Hall of Fame, MVP of the State's Championship game, 1989. He will be playing this summer in the Shrine Team, which will be in July.

He will going to the University of Maine, which is an honor, a boy from Maine going to the University of Maine. He had chances to play on several bigger teams but chose his home state.

I think I can summarize Steve Knight for being a great guy because, when presented with a trophy, he quoted to the people, "I would like to thank and share this award with my teammates because they have made this whole thing possible."

Was passed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative PRIEST from the Committee on Legal Affairs on Resolve, Authorizing Rommy Haines to Present a Claim for 3rd-party Damages to a Board of Arbitration a 2nd Time (H.P. 1780) (L.D. 2449) reporting "Leave to Withdraw"

Representative PRIEST from the Committee on Legal Affairs on Resolve, Authorizing the Alna Store, Incorporated and Its Proprietors to Sue the State (H.P. 1782) (L.D. 2452) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Amend the Scheduled Drug Laws" (H.P. 1720) (L.D. 2376) reporting "Leave to Withdraw"

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

Ought to Pass Pursuant to Joint Order (H.P. 1483)

Representative MELENDY from the Joint Select Committee on Corrections on Resolve, Creating a Commission on Adult Sentencing (EMERGENCY) (H.P. 1801) (L.D. 2471) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1483)

Report was read and accepted, the Resolve read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass Pursuant to Joint Order (H.P. 1769)

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Amend the Maine Criminal Code with Regard to Drugs" (H.P. 1803) (L.D. 2474) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1769)

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

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1990 (EMERGENCY) (H.P. 1805) (L.D. 2476) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1990 (EMERGENCY) (H.P. 1806) (L.D. 2477) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1990 (EMERGENCY) (H.P. 1807) (L.D. 2478) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1990 (EMERGENCY) (H.P. 1808) (L.D. 2479) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1990 (EMERGENCY) (H.P. 1809) (L.D. 2480) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass Pursuant to Joint Order (H.P. 1484)

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 1990 (EMERGENCY) (H.P. 1810) (L.D. 2481) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

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

(S.P. 972) (L.D. 2438) Bill "An Act Concerning the Authority of the Public Utilities Commission to Order Competitive Bidding" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-631)

(S.P. 884) (L.D. 2253) Bill "An Act to Improve Oversight of the Financial Condition of Insurers" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-635)

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

(H.P. 1754) (L.D. 2417) Bill "An Act to Improve Protective Services for Incapacitated and Dependent Adults" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1041)

On motion of Representative Hanley of Paris, was removed from the Consent Calendar, First Day.

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

Committee Amendment "A" (H-1041) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

(H.P. 1650) (L.D. 2283) Bill "An Act to Provide Uniformity and Fairness after Mortgage Foreclosure" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1042)

(H.P. 1767) (L.D. 2435) Bill "An Act to Modify the Applicability of the Certificate of Need Program to Hospitals and to Exempt Certain Hospital Restructuring Activities from the Requirement of Approval by the Maine Health Care Finance Commission" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1043)

(H.P. 1527) (L.D. 2112) Bill "An Act to Establish the Protection and Advocacy Agency for Persons with Disabilities" (EMERGENCY) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1044)

(H.P. 1770) (L.D. 2440) Bill "An Act to Allow the Loan of Automobiles to Municipalities for Law Enforcement Purposes" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1045)

(H.P. 1628) (L.D. 2255) Bill "An Act to Exempt Forestry Activities in Forested Wetlands from Regulation Under the Natural Resources Protection Laws" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1048)

(H.P. 1633) (L.D. 2260) Bill "An Act Requiring the Reinstatement of Health Insurance for Persons with Organic Brain Disease" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1049)

(H.P. 1788) (L.D. 2457) Bill "An Act Concerning State Education Mandate Waivers" (EMERGENCY) Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1052)

(H.P. 836) (L.D. 1168) Bill "An Act to Provide Adjustments in the Educational Funding Formula" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "B" (H-1053)

(H.P. 1590) (L.D. 2202) Bill "An Act to Implement Certain Provisions of the Federal Family Support Act of 1988 and Improve Access to Services in the

Additional Support for People in Retraining and Education Program" (EMERGENCY) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1054)

(H.P. 1735) (L.D. 2394) Bill "An Act to Clarify the Process by Which the Board of Environmental Protection Regulates the Discharge of Toxic Substances to the State's Surface Waters" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1055)

(H.P. 1691) (L.D. 2341) Bill "An Act to Enhance the Ability of the State to Respond to Oil Spills" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1056)

(H.P. 1721) (L.D. 2377) Bill "An Act to Reduce the Use of Marijuana and to Make Related Amendments to the Drug Laws" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1057)

(H.P. 1758) (L.D. 2423) Bill "An Act to Clarify the Laws on Manslaughter in the Workplace" (EMERGENCY) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1058)

(H.P. 1497) (L.D. 2074) Bill "An Act Concerning Living Wills" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1059)

(H.P. 1730) (L.D. 2389) Bill "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1060)

(H.P. 1672) (L.D. 2314) Bill "An Act to Increase the Penalty for Vehicular Manslaughter and to Remove the Habitual Drunk Driver Offender from the Highways" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1061)

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

PASSED TO BE ENACTED
Emergency Measure

An Act to Make Revisions in the Drug Testing Laws (S.P. 801) (L.D. 2049) (H. "B" H-1027 to C. "A" S-600) Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter. Representative DEXTER: Mr. Speaker, I would like to pose a question through the Chair.

After rehabilitation and recertification, does the employee have the right to go back to his or her old job and bump an employee that was hired during the rehabilitation? Or does the employer have to pay both people even though there is only one position?

The SPEAKER: The Representative from Kingfield, Representative Dexter, has posed a question through the Chair to anyone who may respond if they so desire. The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: The law as presented to us says that the person who has been removed from their position and then has a clean bill of health and comes back, they may resume their old job and has the right of reinstatement. If they cannot be medically qualified during the period of reinstatement, it is not a question of their having bumping rights over

another employee, if I understood your question correctly.

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

Representative DEXTER: Mr. Speaker, Ladies and Gentlemen of the House: I am still not clear as to whether the employer would have to hire two people when there is only one position available. If the gentleman would clarify that -- I was thinking about the small employer like my son, who runs a small operation with just four or five men or seven or eight?

The SPEAKER: The Representative from Kingfield, Representative Dexter, has posed additional questions through the Chair to Representative Ruhlin who may respond if he so desires.

The Chair recognizes that Representative.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: Trying to figure out exactly how it would work -- the law says no, you do not have to. If a person is medically disqualified, you may remove them.

Representative Webster of Cape Elizabeth requested a roll call.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of all the members elected to the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 214

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

NAY - Aikman, Anderson, Ault, Begley, Carroll, J.; Curran, Dellert, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Norton, Parent, Pendleton, Pines, Seavey, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Bailey, Jackson, LaPointe, Larrivee, McGowan, Rolde, Sherburne.

Yes, 101; No, 43; Absent, 7; Paired, 0; Excused, 0.

101 having voted in the affirmative and 43 in the negative with 7 being absent, 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 Assist the Department of Human Services in Conducting Chronic Disease Investigations and Evaluating the Completeness or Data Quality of its Disease Surveillance Programs (S.P. 807) (L.D. 2070) (H. "A" H-1024 to C. "A" S-621)

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. 106 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 Certain Provisions of the Fish and Wildlife Laws (H.P. 1621) (L.D. 2243) (C. "A" H-1012)

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 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 Applicable to Medicare Supplement Insurance Policies (H.P. 1708) (L.D. 2357) (C. "A" H-1017)

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 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 Guidelines and an Advisory Council for Continuous Telecommunications Relay Services for Deaf, Hearing Impaired or Speech Impaired Persons Who Must Rely on Special Telecommunications Equipment for Telecommunications (H.P. 1710) (L.D. 2361) (C. "A" H-1019)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Amend the State's Hazardous Materials and Underground Tank Installer Laws (H.P. 1729) (L.D. 2388) (H. "A" H-1026; C. "A" H-961)

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. 106 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 Carrying of Firearms and Firearms Safety Programs (H.P. 1737) (L.D. 2398) (C. "A" H-1030)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act (H.P. 1762) (L.D. 2427) (C. "A" H-960; H. "A" H-1035)

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 none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Clarify and Improve the General Assistance Laws (S.P. 712) (L.D. 1889) (C. "A" S-622)

An Act to Establish the Taxpayer Bill of Rights (S.P. 888) (L.D. 2264)

An Act to Provide Greater Protection Under the Domestic Abuse Laws (S.P. 989) (L.D. 2458)

An Act to Increase Penalties for Violation of the Pesticide Laws (H.P. 1386) (L.D. 1916) (C. "A" H-1022)

An Act to Amend Certain Sales Tax Exemptions (H.P. 1573) (L.D. 2180) (C. "A" H-1029)

An Act to Clarify the Negotiability of Sabbatical Leave Agreements (H.P. 1613) (L.D. 2230) (C. "A" H-981)

An Act to Study the Development of Aquaculture in Maine (H.P. 1703) (L.D. 2352) (H. "A" H-1016 to C. "A" H-1015)

An Act to Reduce Toxics in Packaging (H.P. 1715) (L.D. 2368) (C. "A" H-1020)

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 Direct the Department of Human Services to Develop a Proposal to Adequately Address the Housing Needs of Aid to Families with Dependent Children Recipients (S.P. 962) (L.D. 2429) (C. "A" S-627)

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

ORDERS OF THE DAY
UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Thursday, March 29, 1990, 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:

JOINT RESOLUTION Petitioning the Congress of the United States to Propose an Amendment to the Federal Constitution to Limit the Terms of Members of Congress (H.P. 1790)

TABLED - March 29, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Adoption.

On motion of Representative Gwadosky of Fairfield, retabled pending adoption and later today assigned.

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

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1990-91" (EMERGENCY) (H.P. 1771) (L.D. 2441) (C. "A" H-1028)

TABLED - March 29, 1990 (Till Later Today) by Representative MAYO of Thomaston.

PENDING - Passage to be Engrossed.

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

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

An Act to Establish the Department of Families and Children (H.P. 1199) (L.D. 1666) (H. "A" H-1008 to C. "C" H-820)

TABLED - March 29, 1990 (Till Later Today) by Representative JOSEPH of Waterville.

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

On motion of Representative Joseph of Waterville, retabled 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:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Joint Select Committee on Corrections pursuant to Joint Order (H.P. 1483) reporting a Bill "An Act Authorizing a General Fund Bond Issue in the Amount of \$20,250,000 for Construction, Planning, Purchasing and Renovation of Correctional Facilities" (H.P. 1799) (L.D. 2469) and asking leave to report that the same "Ought to Pass"

Signed:

Senators:

BUSTIN of Kennebec
 PERKINS of Hancock
 MATTHEWS of Kennebec
 SMITH of Island Falls
 DORE of Auburn
 STROUT of Windham
 HEPBURN of Skowhegan
 GREENLAW of Standish
 LIBBY of Kennebunk
 MANNING of Portland
 ANTHONY of South Portland

Representatives:

Minority Report of the same Committee pursuant to Joint Order (H.P. 1483) reporting a Bill "An Act Authorizing a General Fund Bond Issue in the Amount of \$20,250,000 for Construction, Planning, Purchasing and Renovation of Correctional Facilities" (H.P.

1800) (L.D. 2470) and asking leave to report that the same "Ought to Pass"

Signed:

Representative: MAYO of Thomaston

Reports were read.

Representative Melendy of Rockland moved that the House accept the Majority "Ought to Pass" Report.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I would urge you not to adopt the Majority Report so we could move on to adopt the Minority Report on this very important piece of legislation.

First of all, I have to make note that this is a 12 to 1 report and some people have said I didn't do very well, but I would point out that a year ago, the report was 13 to 0, so I think we are at least moving in the right direction.

I ask you to oppose the pending motion because of a lot of different reasons. I will try to run through them as quickly as possible and beg your indulgence for doing so.

First of all, I feel it is important that I correct some misconceptions that have been floating around over the past couple of years as to the number of inmates we have in our correctional system and the number of beds those inmates occupy. I saw several accounts referring to the system as having 1,600 inmates occupying 1,000 cells. That is not correct, in fact only about half correct. There are about 1,471 inmates today in the state facilities occupying 1,134 cells, the difference is 337, not 600.

We presently have proposed or under construction approximately 297 additional cells right now, they are already authorized by the legislature and in all but one case, they are already under construction. They include 100 additional beds at the Windham Correctional Center. Those beds will be used to transfer inmates out of an industrial building so the net effect right now is somewhat misleading but the actual effect is that the rated capacity of that institution will increase by 100. Yes, we are transferring them out of an industrial building and returning the industrial building to its proper use but the 100 beds were never counted in the rated capacity of that institution so therefore, we must now add it to the rated capacity of cells available to us.

It is anticipated that the Charleston Correctional Center will expand by approximately 57 cells this month. The super maximum in South Warren, which was authorized in 1986, will be opened on July 1, 1992 and that is another 100 beds and the Bolduc Unit in South Warren on the same date, hopefully, will have an expanded capacity of about 40 beds. That is 297 beds that is under construction at this time, some of them will be opening, 157 of whom will be opening in the next few weeks. That would bring down the bed deficit even further.

The Corrections Committee is divided on this report only on one item. We all agreed on most of the package, the one exception to that is what to do with \$14.25 million. The Majority Report says to build 100 additional beds for the yet unbuilt facility in South Warren for the maximum security prison. This is in effect the same bond issue that last November, the voters of the State of Maine by a wide margin, turned down. The number of beds has been reduced but it is still the same construction that the voters turned down last November.

I propose that we build a medium security facility of 224 beds, an additional 114 beds over the Majority Report and build those facilities at medium

security because, by the Department of Corrections own projections, that is where the biggest crisis in corrections is, medium security.

I asked the Commissioner of Corrections, if you put Thomaston and Windham side by side, which facility would be, in his opinion, more severely overcrowded and he said, without hesitation or reservation, that Windham was more severely overcrowded. Windham, ladies and gentlemen of this House, is a medium security facility.

A lot has been said about the security status at the State Prison in Thomaston and the Department of Corrections presented to the committee a few weeks back a chart that listed Thomaston as a medium security facility. I was kind of amazed with that because I always thought that the State Prison in Thomaston in my hometown was a maximum security prison. I asked the department how long they had been listing it that way and they said for five years. I asked for some documentation on that. They gave me some documentation that I thought was inconclusive. I asked for the entire report from which that documentation was taken and I got that from the staff to our committee and there was a chart on page six in that report dated November 29, 1988 which says that Thomaston is a maximum security prison. I asked some questions as to whether or not Thomaston met American Correctional Association standards for a medium security facility and I was told it did not, it didn't meet the standards for any type of facility. I think it is rather academic if we changed the security status all of a sudden last month from maximum to medium to make the maximum numbers look worse than they really are. I think it is a rather academic exercise and I think you know why it was done. It wasn't done because the security status of that institution has changed at all. It was done to make the maximum security numbers look worse than they were.

The State Prison at Thomaston was designed in the 1700's and built in the 1800's and the problem with it is not that it doesn't hold people tightly, the problem with it is that it is an obsolete facility. It is not designed to meet current standards.

Last year, I opposed the construction plan as you know. I did it so hesitantly because I was not completely sure that the people of the State of Maine did not want to support a maximum security prison and, as you know, we did put that bond issue out to the voters of Maine. The voters of Maine said conclusively that they were not going to support a maximum security expansion to a facility that has yet to be built and still is yet to be built.

We are here less than six months later trying to second guess the voters of the State of Maine, they said "no" to a maximum security prison and simply reducing its size in half and putting it back out with some other things that are steps in the right direction doesn't change that.

I would urge this body to reject the pending motion so that we can go on and accept the Minority Report, a report that I believe the voters of Maine will pass. The Majority Report, I feel will be rejected.

Mr. Speaker, when the vote is taken, I request the yeas and nays.

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

Representative MELENDY: Mr. Speaker, Men and Women of the House: Shades of deja vu, seems like I was here just a few months ago doing the very same thing, opposing the Representative from Thomaston, a dear friend, and I hate to do this but I must.

I would like to ask you to support the Majority Report, a 12 to 1 report, I must repeat again.

The committee has worked diligently for the full year on all issues of corrections. When the bond issue was being addressed last year, the Council of Churches, Maine Civil Liberties Union and others suggested that perhaps the State of Maine did not have a master plan. The State of Maine did have a plan but in hindsight, I have got to say that I am sort of glad that the bond issue was defeated last year. Why? Not because we didn't need the beds because I was supporting that issue and yes, we needed the beds and if they had been built, fine, but I think the reason that I feel the way I do is that it gave us a chance to step back and look again at the total picture. The total picture is what the people on the street were saying, you cannot address just maximum facilities. We cannot build ourselves out of this problem, that is what the nation is trying to do.

We, as a committee, over the years, have tried to address many other things, community type, restitution centers and things of that nature and we always at the last minute had to buckle down to the fact that we need beds so let's build those beds because they are in our care, the people do not want them on the street and so forth. So, we always reverted to that type of a response. I think with the committee working with the Department of Corrections, the Council of Churches, Maine Civil Liberties Union, other interested parties, whether they are workers, employees of the department, or people who have contracts with the department and other community people, we have had work session after work session after work session, everyone has been heard. I think that what is proposed as being the Governor's Bond Issue but, quite frankly, I would say that it is the committee's bond issue because it is addressing all the things that we have talked about that we needed.

I am supporting the construction of the 100 maximum security beds in Warren. The reason that I am supporting that particular report and opposing Representative Mayo's report is that I do not believe that we have adequate maximum security facilities in this state. If I could go with Representative Mayo, I would still say that yes, we could eventually address those beds. However, the prime stickler in the difference between the two reports is that we already own the land, we have been through all the process, DEP and everything else that we needed to do to build the beds in Warren. The beds are needed and they are needed now. If I thought we had a piece of land along I-95 to address the Minority Report, I might have gone that way but we don't have and I don't dare to take the chance.

I would like to read an editorial opinion that was in my local newspaper. "Construction of a medium and minimum security facility near Interstate I-95 is being suggested in the Minority Report -- there may well be a need for this type of facility but the fact remains that Maine does not have adequate maximum security beds even with the already approved 100 bed prison in South Warren. Hardline prison sentences, lack of parole in an aged maximum security prison in Thomaston have combined over recent years to create a dangerous situation for those who work in the Thomaston facility and for people who live in the immediate area. The people of Maine have said that they want criminals to serve time. There is a price which has to be paid if the state is to abide by the peoples wishes. On top of this, those placed behind bars cannot be subjected to overcrowding and potentially dangerous situations without leaving the

state open to class action lawsuits which conceivable could leave Maine with no choice of remedies for the problems. This new proposed bond strikes an important compromise on the issue of added maximum security beds at Warren and shows the administration and legislative process in Augusta recognize the importance of studying innovative solutions to problems that afflict all of Maine. When the \$2,250,000 bond issue goes before the Maine House and Senate, it should receive the endorsement of both legislative bodies. Our elected leaders should put it before the people in November's election with their endorsement for passage."

More than the beds that are being debated here, we have added construction and renovation of the downeast facility in Bucks Harbor for \$1.5 million, construction and renovation to establish a pre-release correctional unit in Hallowell for \$50,000, establishment of two diversion restitution centers in Androscoggin and Penobscot County, that is a \$2.8 million package and I think this is what I was hearing -- when I was hearing the people on the streets that were opposing last year's bond issue is, we need something in the community.

Representative Anthony put in a piece of legislation this year to deal with just that and it was well endorsed by the committee and I think it was very prudent of the Department of Corrections and the Governor to add it to this bond issue because it is bringing in the total picture of what we are wanting, establishment of pre-release centers in Cumberland and York Counties for \$1.4 million.

More importantly, for those who said that we had no real plan, the feasibility study for future operations, additions, regarding Maine Youth Center, the feasibility study for establishing and siting a new multi-purpose correctional facility dealing with reception, diagnostic mental health, medical and geriatric clients in future use of the Maine State Prison in Thomaston for \$250,000. That is an issue that continues to come up, time and time again.

One of the things in terms of what to do with the Maine State Prison and one of the things that we have done in our bond issue is we are assuring that finally a former colleague of this House, Representative Connolly, is going to have his prayers answered and that is that the East Wing, the annex, those 16 people in there, will be removed just as soon as we have any beds on line in Warren. No way would that facility ever open again unless they had beds that met federal standards and that is next to impossible. So, they are going to have to change it to something else. I feel really great about this whole thing.

If anyone has any problems or questions as to why the Maine State Prison is not a maximum facility, I have loads more testimony. One of the things that pleases me is the Maine Council of Churches is also putting something out saying that they are willing to support any bond issue and that perhaps is one of the more important things. They fought hard to defeat the bond issue last time.

One of the things that Senator Bustin and I did early in the session was to call them in (the MCLU) and everyone else who opposed it and said, you must sit down with us, we must work together, we have to address beds and yes, we have to address other issues. We have to address beds and we can't continue to put that off. They have agreed that they will support either one of these bond issues. More important than that, whatever bond issue is passed, we must go out unanimous and whether it is the Minority Report or the Majority Report that passes,

we cannot keep waiting. I urge you, first of all, to support the Majority Report.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: In order to help me understand the correctional needs, I asked the department earlier in the session to give me a snapshot on a particular day of how many people we had in the system, what their classification was and where they were located. That snapshot of our system as of March 6th showed that at the Maine State Prison, we had 579 inmates. That facility has a rated capacity of 428. In other words, we had 150 over capacity at that institution. That included 237 classified as maximum security and 14 as high-max or a total of 251 as either max or high-max.

A number of people here in this body have visited that institution at the Maine State Prison. If you haven't, I fully encourage you to do so. To call that an adequate maximum security institution is really shameful. It is the best that we have and it is what we are getting by with and what we have gotten by with for over 100 years but we need a truly adequate maximum security institution in this state.

I pause a minute because I find myself almost embarrassed to stand up here and be speaking in support of maximum security institutions. If this bond issue was only for that, I don't think I could do it, but as Representative Melendy has pointed out, this bond issue includes a number of good things, a range of sanctions and that is what is needed.

Committee Report "A" and Committee Report "B" are identical all the way down the line except in terms of the very first item for \$14,250,000 with the Majority Report calling for building 100 maximum security beds at Warren and the Minority Report calling for a 224 bed minimum security facility to be built on the I-95 corridor. That Minority Report does not even have any idea where or when that facility could be built at this point. This is an idea, it is not a plan. While it would be wonderful to add more beds, we have to say what are the types of beds that are needed. I submit to you that the types of beds that are needed is to have a true maximum security prison built at Warren.

The issue really in some ways becomes, do we need medium beds or do we need maximum beds? From my point of view, we need maximum beds, true maximum beds, a modern facility that can deal with our most difficult inmates. There is a significant morale problem among the guards, there is a tremendous overcrowding at the Maine State Prison and you cannot adequately care for the most difficult prisoners in that facility under these conditions. That is why I signed onto the Majority Report that would build 100 beds.

There is a second issue that is lurking here and it plays through all this debate and that is that speed at which you could get beds built. We currently have a shortage of about 240 beds. That is to say on that same snapshot of March 6th that I asked for, we had a listed capacity of 1,436 beds and we had 1,674 inmates throughout our system. That is 100 over the anticipated average daily count that was anticipated for this year. Unfortunately, we are running ahead of projections. We need to catch up and we need to catch it up fast but we need to do it in an appropriate manner.

Now you could say, the Minority Report calls for more beds and therefore, doesn't it catch us up faster? The answer to that, I submit, is no, because this is an idea, not a plan. We currently have the

beginning of construction at Warren going on right now and if we were to send to the voters and they were to approve the 100 additional maximum security beds, it would be a very simple matter to add the 100 additional beds in a very fast manner. If we went with the Minority Report and asked for the development of an idea into a plan for a medium security institution on the I-95 corridor, we are talking about a long time. It has taken up four years from the time the bond issue passed to even get to the groundbreaking at Warren. I would submit that it would be at least that length of time to get something started on the I-95 corridor. I don't deny we need to expand our facilities and not build everything at Warren and at Thomaston. We need to do that and we need to develop a plan for an I-95 corridor facility. In future years unfortunately, we will have to be dealing with these bond issues probably every year for a number of years. The projections call for about 100 additional prisoners in the system each year. If we are to even just keep abreast, we are going to have to continue building beds at the rate of 100 a year, so this isn't the last you are going to see of bond issues for the correction systems, unfortunately.

I submit to you for two reasons we should go with the Majority Report, first because the facility we have at Thomaston is not an adequate maximum security facility and we need one. There are 251 inmates as of March 6th who need a max or high-max facility. To try to deal with them in a horribly overcrowded facility at Thomaston doesn't make sense.

We need it for the second reason because going with the Majority Report will allow the development of those beds in a rapid fashion and getting those beds on line and, as a consequence, that will deal with the severe morale problems that we have at Thomaston among the guards there.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Last year preceding the debate in November concerning this bond issue, a lot of people had some concerns and they knew that being a legislator, I would know a little more about corrections than they would. They were concerned about the \$40 million. I think when the people were told that, every nine days in the State of Maine now, somebody gets murdered, it shocked them. If you look at the statistics in the last two or three years, there are approximately 40 murders a year. Most of us know that most of those people are caught and they are sentenced within a matter of a year or a year and a half. If you look at that and you look at those people, who Representative Anthony has already talked about, about being inside there as maximum and high maximum security people, then you can understand what the Department of Corrections is looking at down the road. Granted, some of those people after they have been in the system for many years might be reclassified as medium security people, but when somebody gets convicted, say for shooting their wife over a love affair or something like that, have never been in trouble before in their life -- you can't put somebody like that in a medium security institution when he is looking at 40 or 50 years. Those particular individuals need to be classified as maximum security prisoners for a period of time. So, when you look at what this state is looking at down the road, an average of 40 murders a year, those people are convicted, they are sentenced to the state institutions and that state institution happens to be the Maine State Prison. That is the problem that the Department of Corrections is having, plus the fact

that this legislature has increased sentencing many more years for violent crimes. In some cases, they went from 20 to 40 years. If we are going to do that because the public wants us to do that, then we have to have a place to put these people. We certainly can't put some of these people in restitution places after they have been convicted of rape, kidnapping, or some other serious crimes. That is one of the reasons we need to take a hard look at the Maine State Prison and realize that it is overcrowded with maximum security people and get another 100 beds in Warren and get it up quick so that it can be on line to meet the needs of the Department of Corrections.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I can't help but think about what kind of paradox we are setting up here. We are going to build a brand new facility in South Warren with climate control and with standard cell sizes that meet all the new modern standards and we are going to move into that facility the worst inmates, the so-called bad actors. We are already going to do that with 100 beds and we are going to leave behind in Thomaston "The Rock", relatively speaking, the better acting inmates who are medium security or less. They get to stay in the old dungeon and the bad guys get to go to the new prison, complete with climate control. Doesn't make a lot of sense to me.

Second of all, I have to take exception to some of the figures you have heard here. Again, I heard that there were 1,600 inmates in our system. Ladies and gentlemen of the House, on March 13, 1990, there were 1,471 inmates occupying cells in State Correctional facilities. The Department of Corrections chooses to include such people in their bed counts as the eight individuals who are on escape. Well, how can you explain to me an individual who is on escape, how can you count them in the bed count? How can you count the 43 individuals who are in out-of-state facilities? How can you count the four individuals who are in nursing homes? You can't because there clearly aren't 1,600 inmates in the system, there are a lot less than that, there aren't even 1,500 inmates in the system, there are 1,471.

Representative Manning's system of classifying inmates, I am glad to say, isn't the one the Department of Corrections uses. The security status of inmates done over a period of time -- they look at inmates and they determine what their security status is. It has something to do with the crime they have committed but not entirely everything to do with the crime that they committed. There are inmates in the system who have committed murder, who are medium security or minimum security inmates. There are also inmates in the system who have committed parole violations who are maximum security inmates. You have to look at the classification of those inmates and, as Representative Anthony pointed out, there are only 250 some (actually my figures were a little higher than that) inmates in the State Prison at Thomaston who are maximum security. We have 355 maximum security beds in Thomaston, 100 beds approved for Warren, why then are we building maximum security beds when the crying need in corrections a 400 bed deficit by 1995 is in medium security? It doesn't make any sense.

As to the cost and the time involved in producing these medium security beds, I did some checking around and I talked to some companies out-of-state who are building prisons in eight to nine months and they are building them using a pre-cast method, a method, by the way, that the Department of

Corrections said they were looking at for South Warren. These prisons go up this way in about half the time and for a lot less cost. A quote I got from one company for 224 medium security beds came in at \$12.3 million. I added to that some contingency of \$1.3 million and a half a million dollars to buy land which I am sure there is plenty of somewhere in the State of Maine to place this facility. I really question the time they are talking about to complete the I-95 project, I don't think it will take that long, certainly not the way I would do it if I was in charge. It wasn't two years since the bond issue in South Warren has been approved, it has been four years and one would wonder why it has taken so long. I am sure you have wondered why it has taken so long, it has been the environmental permits that have held it up, it is waiting for one more environmental permit to get the project going.

The voters of Maine spoke loud and clear last November and this legislature, if it passes the Majority Report, would be second-guessing those voters. I am not going to do that, I am going to send back to the voters a bond issue that they will endorse and support. If you send the Majority Report back to them, I guarantee you they will turn it down. I urge you to vote against the pending motion.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to pose a question to Representative Mayo, if I may.

Representative Mayo, do you support 500 max beds at Warren?

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

The Chair recognizes that Representative.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question of Representative Smith from Island Falls, I will state again what I stated in the Corrections Committee. If we could find a plan that would reduce the population of Thomaston to a low enough level to be adequately operated, I would support the additional beds at South Warren for maximum security to replace that facility. The Majority Report does not allow for that, in my opinion. The plan that the Minority Report calls for does allow for that because we need to build both medium and maximum security facilities to replace the full prison at Thomaston. That is my ultimate objective and I think my report is the best way to do it.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I think Representative Mayo has said who is in charge, if he was in charge — who do we have in charge? We have a man that has been appointed by a former Governor and served under both of his terms and reappointed by this Governor and I think he knows what he is doing. I certainly don't. I am not qualified to run the jail.

Representative Mayo is representing his district today, not the Democrat's caucus and I hope that we remember that when we vote on this issue. We are all concerned about the prisoners and I had a hard job accepting some of these things, I am a little tougher than some, I guess, you might say. I don't always agree with what the Council of Churches has to say so they don't sway my vote too much.

I agree with Daniel E. Wathen, Justice of the Supreme Judicial Court, when he said "The Council operates on the assumption that the number of serious offenders who represent a significant danger to society is determined by the number of jail beds." In other words, if we hang up a sign "No Occupancy" then there will be no more crime. That is pretty hard to swallow.

I believe the Commissioner's proposal and I support it and I hope you will also.

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

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

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

ROLL CALL NO. 215

YEA - Aikman, Anderson, Anthony, Ault, Begley, Butler, Carroll, D.; Carroll, J.; Cashman, Clark, H.; Constantine, Crowley, Curran, Daggett, Dellert, Dexter, DiPietro, Donald, Dore, Duffy, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hanley, Hastings, Hepburn, Hickey, Higgins, Hutchins, Jalbert, Lawrence, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Manning, Marsano, Marsh, McCormick, McPherson, McSweeney, Melendy, Merrill, Michaud, Murphy, Nadeau, G. G.; Norton, Nutting, O'Gara, Oliver, Paradis, E.; Paradis, P.; Parent, Paul, Pendleton, Pines, Plourde, Reed, Richard, Richards, Ridley, Rotondi, Seavey, Simpson, Skoglund, Small, Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Tamaro, Telow, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

NAY - Adams, Aliberti, Allen, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carter, Cathcart, Chonko, Clark, M.; Conley, Cote, Dutremble, L.; Erwin, P.; Farnsworth, Graham, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hoggund, Holt, Hussey, Jacques, Joseph, Ketover, Kilkelly, Luther, Macomber, Mahany, Marston, Martin, H.; Mayo, McHenry, McKeen, Mills, Mitchell, Moholland, Nadeau, G. R.; O'Dea, Paradis, J.; Pederson, Pineau, Pouliot, Priest, Rand, Ruhlin, Rydell, Sheltra, Strout, D.; Swazey, Tardy, Townsend, Tracy.

ABSENT - Bailey, Coles, Jackson, LaPointe, Larrivee, McGowan, Rolde, Sherburne, The Speaker.

Yes, 84; No, 58; Absent, 9; Paired, 0; Excused, 0.

84 having voted in the affirmative and 58 in the negative with 9 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

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

BILL RECALLED FROM ENGROSSING DEPARTMENT

(Pursuant to Joint Order - House Paper 1792)

Resolve, Creating the Special Commission to Study and Evaluate the Status of Education Reform in Maine (EMERGENCY) (S.P. 561) (L.D. 1564)

- In House, Passed to be Engrossed as amended by Committee Amendment "B" (S-593)

On motion of Representative Kilkelly of Wiscasset, under suspension of the rules, the House

reconsidered its action whereby L.D. 1564 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-1021) and moved its adoption.

House Amendment "A" (H-1021) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "B" (S-593) and House Amendment "A" (H-1021) in non-concurrence and sent up for concurrence.

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1046) on Bill "An Act Concerning the State Minimum Wage" (H.P. 1646) (L.D. 2279)

Signed:

Senators: MATTHEWS of Kennebec

ESTY of Cumberland

Representatives:

LUTHER of Mexico

McKEEN of Windham

PINEAU of Jay

TAMMARO of Baileyville

RAND of Portland

McHENRY of Madawaska

RUHLIN of Brewer

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

Signed:

Representatives: McCORMICK of Rockport

BUTLAND of Cumberland

REED of Falmouth

Reports were read.

Representative McHenry of Madawaska moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Cumberland, Representative Butland.

Representative BUTLAND: Mr. Speaker, Men and Women of the House: I rise today to speak in opposition to L.D. 2279, An Act Concerning the State Minimum Wage. L.D. 2279 contains two separate issues, one being an increase to the state minimum wage and the other is the creation of a mechanism to automatically affect the increases in the minimum wage. I do not oppose an increase to the state minimum wage at this time; however, I do oppose the mechanism that would index the increase in the state minimum wage to the increase in the state average weekly wage.

What we are trying to accomplish when we establish a new minimum wage is a balance between one's willingness to work and the willingness of an employer to create jobs and to hire workers. It is a balancing act that involves compromise.

Ideally, if we could construct an economic model that would graft these two components, willingness to work and willingness to hire, the minimum wage would appear where the two lines touch. Unfortunately, we can't do that because this determination is not a science. It is in fact an art, an art that should be practiced in the political arena. I believe it is appropriate for us to revisit the minimum wage issue every two or three years, it is appropriate because

economies change and we need room to react to those changes.

Ostensibly, this L.D. was introduced to remove the legislature from the process of determining a fair minimum wage. I am sure that it has a certain intuitive appeal until you take into consideration the practical effect. If we had introduced indexing ten years ago in 1980, the present uncapped minimum wage would be in excess of \$5.00 an hour and the capped minimum wage would be \$4.90. By comparison, the present federal minimum wage is \$3.80 and that will increase to \$4.25 a year from now. The present state minimum wage is \$3.85. The current average minimum wage in New England is \$3.95. As you can see, even if the \$4.90 level had been adopted or was in effect presently, this would put the State of Maine significantly out of alignment with our neighbors and the nation as a whole.

Even though this concept has been around for several years, no state presently indexes its minimum wage. The U.S. Congress has refused to index as recently as two years ago. The question that you must consider in your minds is, would a rate of \$4.90 an hour have a detrimental effect on job creations in this state? If you represent a district on the coast, a \$4.90 minimum wage probably would not be an obstacle to employment but the economy on the coast does not represent the economic reality for the entire state. How would a \$4.90 minimum wage play back in your hometown, be it Houlton, Caribou, Farmington or Fryeburg?

The small businessmen who have contacted me have expressed serious reservations about hiring untested workers at a \$4.90 per hour rate. I believe that the high minimum wage created as a result of indexing would serve as disincentive to create jobs, especially during times of economic uncertainty and we have to consider those who would suffer. Remember, we are talking about an entry level wage and indexing would artificially inflate the minimum wage because it would be pegged to the increase of average weekly wages, which does not necessarily relate to entry level wages throughout the state. For most people who bring a sense of responsibility, dependability and motivation to the workplace, their stay at the minimum wage will not be long as they continue to acquire new skills and to prove their value, they will be receiving step increases and promotions. That is what the work experience is all about — you hire a person because you believe that he or she will add value to your product. In this time of economic uncertainty, we need to be passing legislation that provides incentives to those who hire individuals who possess marginal skills. We need to allow them the opportunity to get a firm grasp on the lower rungs of the wage ladder. We should not be passing legislation that effectively serves to step on both their fingers and toes. Let them get that grip, let them prove their worth, let them know the joy of doing a job well done and let them experience the dignity of self-sufficiency.

Mr. Speaker, I request a roll call.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to very carefully evaluate the future impact of L.D. 2279. I think it is fair to say that we are all aware in this chamber that the outlook for the Maine economy is, at best, somewhat cloudy. Two of the major indicators that we all use, sales and income tax revenues, are proving to be much less than we all thought they would be, just a year or so ago. We are all aware of the serious financial difficulties that some of our major banking institutions are undergoing.

I grabbed a few newspaper clippings recently and a fish processing firm on the coastal area has closed. A few weeks ago, there was a little clipping about a business, not a big business, 70 employees in the Augusta area, been in business for 22 years, they are now closed. More recently, from the Kezar Falls-Brownfield area, a hundred jobs are gone, Vulcan Electric has closed. This the third business in several months in that area to close so I think it is fair to say that we can all agree, the outlook is a little cloudy.

From the Department of Labor brochure for the month of January, unemployment figures for the State of Maine have increased from 4.3 to 5.1, an 18 percent increase in a single year. Perhaps then we could agree that the outlook is uncertain, the course ahead somewhat cloudy and the economic condition of Maine, as used to be said, is somewhat delicate.

This then is the time for prudent restraint in fiscal policy. This is a time to move carefully, to buckle our seat belts and ride out the turbulence that we see ahead. This is not the time for a noble experiment. This is not the time to set out on a course for some brave, new world where the environment may well be hostile and may not support the delicate organism that we call the Maine economy.

We have a Minority Report because the signers of that report simply do not believe that the Majority Report exercises the necessary restraints. It would promulgate a radical new fiscal policy at a time when financial fog obscures what may be dangerous turns in the economic road ahead. We also believe that the Majority Report is well-intentioned but misdirected in that it attempts to address a perceived problem that, in our opinion, does not in fact exist. It seems to be based on a number of premises, which is that more and more of Maine workers are somehow earning the minimum wage. The fact of the matter is, substantiated by the Department of Labor statistics, that in 1986 there were 35,000 Maine workers at minimum wage and in 1988 that number was down to 20,000. Another premise is that, well, there are lots of Maine workers who earn the minimum wage; again based on DOL's statistics, about 3.4 percent of Maine workers earn the minimum wage and about half of those are in the food service business where they receive, in some cases, significant additional income through tips. A further premise is that lots of Maine workers are trying to support a household on the minimum wage and again from the DOL statistics, 58 percent of minimum wage workers in Maine are less than 24 years of age and only 6 to 8 percent are supporting households. A further premise that was put forth is that Maine's minimum wage has in some way not kept up with the rest of the country. I would point out to you that only five states in the nation have a higher minimum wage than Maine. Maine's minimum wage is 50 cents above the federal minimum at present, there are only two New England states with a higher minimum wage, the Maine minimum wage will increase significantly to \$4.25 per hour on

April 1, 1991 and the Maine minimum wage has increased twice in the past two years. An additional argument that has been heard is, well, businesses will just pass along any increased costs that they incur from this bill -- the fact is, that 86.9 percent of Maine's businesses employ 19 or fewer employees as of March, 1988. These small enterprises have very little latitude with which they can shuffle costs and pass them on. One thing that might occur is that they would look at employee benefits as a critical need in this state, health insurance as a possible source of funds to pay for increased business costs. Somehow, Maine just doesn't do well by its minimum wage earners. January of 1988, Maine was 41st in the nation in state average wage but one of the highest with a minimum wage that is 41.4 percent of the state average weekly wage, much better than competitive.

Why is indexing an inappropriate concept? First of all, it puts the minimum wage on auto-pilot without regard for economic conditions. If L.D. 2279 had been in effect in 1980, as Representative Butland said, the current minimum would be approximately \$5.00 an hour, the highest in the nation, 32 percent greater than the present Maine minimum and 52 percent greater than the federal minimum. Can Maine businesses survive with this sort of economic disadvantage? We need to be pretty sure. Remember, not one state has found it desirable to utilize the concept of indexing its minimum wage. No state legislature has opted to turn its back on its obligation to review this issue periodically and act responsibly depending upon conditions as they exist at that time.

Ladies and gentlemen, I would urge you to think carefully and do not send the enterprise we call Maine off on an uncharted economic mission to unknown destinations where no state has seen fit to go before.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I have and did have in committee some problems with this particular piece of legislation, not with its intent, but with one of its finer points. I really wasn't going to say an awful lot today; however, my good members of the Labor Committee who have already spoken have brought it to my attention that perhaps a few things should be said.

The first point I would like to make is today's date is April 5, 1990, the minimum wage in the State of Maine is \$3.85 an hour. The minimum wage in this nation is \$3.80. I heard some figures that we were 50 cents or 60 cents or whatever above the federal level. Would you please look at the record? The record will clearly show that as we stand here today on April 5, 1990, the state minimum wage in the State of Maine is \$3.85 an hour and the federal minimum wage is \$3.80. I think that point should be cleared up.

Another member of the Labor Committee mentioned that the purchasing power, when it was \$3.30, would now be \$5.25. When it was fair to make \$3.30 an hour for an hour's honest work, then why isn't it fair today to have that same hour's worth of work worth the same amount of purchasing power? They said that, had you done that, that you would be paying more than the state minimum wage -- I ask you, what is wrong with paying more than that minimum wage if we in fact have not kept up on our social justice part of the bargain? In 1980 we said, you work for one hour and we are going to make sure that you get this minimum purchasing power. Now in 1990, I think we have found the real reason for indexing because now we have

said, well that was a promise we made in 1980 and we have not kept that promise to you because we now assure you of a minimum wage less in purchasing power than you had with the minimum wage in 1980. That is the real reason for indexing. That is the real reason for a Majority Report on indexing.

You take the principle, the social principle of a person working an hour of honest work, they should be entitled to a certain purchasing power. By not indexing, you allow fluctuations in the economic scale, recessions, inflation, whatever happens to juggle the effectiveness of that purchasing power. When you have done that, you have not kept the faith for assuring that person that they are in fact going to get the purchasing power that their hour's work of labor deserves.

The other thing that I really noted that a member of the Labor Committee said that really brought home the point, that fewer and fewer people in this state receive minimum wage. That is very true, unfortunately, because the minimum wage today has no relevance to that hour of work. They have gone so far down in value since 1980 that it has no relevance in today's market place. That is why the people of Maine have fewer and fewer people receiving minimum wage. It is not because we have, all of a sudden, gone from 48th or 30th place economically, it is because our minimum wage is so far beyond the point of reasonableness and reality that in fact fewer people have to be on it. Those who are on it, I assure you, are also on welfare in almost every case. When they are on welfare, we must remember that we, the taxpayers of the state, are subsidizing the businesses of this state to allow them to pay their workers and their employees substandard wages. Remember that.

I don't think the business of government should be in direct subsidy through employment to the employers of the business places of the state, even though I have a business place. I hope that I would never go to this state and ask them to subsidize my employees because I did not pay my employees a living wage. I think most of the employers in this state would stand with me and say the same thing.

I am sure we will hear more as the afternoon goes along but I just want to point out that the issue here today is not a willingness to work versus a willingness to hire, as another member said. The issue is willing to pay a decent, minimal wage for an honest hour's worth of work and to tie it to a scale that protects that individual's purchasing power. The rest of the bill I won't say anything about.

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 pending question before the House is the motion of the Representative from Madawaska, Representative McHenry, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, I would like to pair my vote with the Representative from Canaan,

Representative McGowan. If he were here and voting, he would be voting yea; I would be voting nay.

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

ROLL CALL NO. 216

YE - Adams, Aliberti, Anthony, Bell, Boutilier, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Conley, Daggett, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Graham, Gurney, Gwadosky, Hale, Heeschen, Hichborn, Hickey, Hogleund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Moholland, Nadeau, G. G.; Paradis, P.; Parent, Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Stevens, P.; Swazey, Tammaro, Tracy, Walker, The Speaker.

MAY - Aikman, Allen, Anderson, Begley, Brewer, Butland, Carroll, J.; Coles, Constantine, Cote, Curran, Dexter, DiPietro, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Kilkelly, Lebowitz, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Nutting, Pendleton, Pines, Reed, Richards, Seavey, Smith, Stevens, A.; Stevenson, Strout, B.; Tardy, Telow, Townsend, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Ault, Bailey, Crowley, Dellert, Dore, Gould, R. A.; Handy, Jackson, LaPointe, Larrivee, Libby, Marston, Mitchell, Nadeau, G. R.; Norton, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Rolde, Sherburne, Small.

PAIRED - McGowan, Strout, D.

Yes, 73; No, 53; Absent, 23; Paired, 2; Excused, 0.

73 having voted in the affirmative and 53 in the negative with 23 being absent and 2 having paired, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-1046) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

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

REPORTS OF COMMITTEES

Divided Report

Later Today Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "B" (H-1050) on Bill "An Act to Protect the Public from Unsafe Industrial and Commercial Facilities" (H.P. 1249) (L.D. 1747)

Signed:

Senators:

ESTY of Cumberland
MATTHEWS of Kennebec
McKEEN of Windham
McHENRY of Madawaska
RUHLIN of Brewer
PINEAU of Jay
TAMMARO of Baileyville
LUTHER of Mexico
RAND of Portland

Representatives:

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "C" (H-1051) on same Bill.

Signed:

Senator:

WHITMORE of Androscoggin

Representatives: BUTLAND of Cumberland
REED of Falmouth
McCORMICK of Rockport

Reports were read.
On motion of Representative Gwadosky of
Fairfield, tabled pending acceptance of either report
and later today assigned.

The following item appearing on Supplement No. 4
was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES
Divided Report

Majority Report of the Committee on Energy and
Natural Resources reporting "Ought to Pass" as
amended by Committee Amendment "A" (H-1062) on
Resolve, Authorizing the Conveyance of Certain Public
Lands and the Settlement of a Boundary Line Dispute
Involving Public Lands (H.P. 1779) (L.D. 2446)

Signed:
Senators: LUDWIG of Aroostook
ERWIN of Oxford
Representatives: DEXTER of Kingfield
GOULD of Greenville
HOGLUND of Portland
LORD of Waterboro
ANDERSON of Woodland
COLES of Harpswell
JACQUES of Waterville
SIMPSON of Casco
MICHAUD of East Millinocket
MITCHELL of Freeport

Minority Report of the same Committee reporting
"Ought to Pass" as amended by Committee Amendment "B"
(H-1063) on same Resolve.

Signed:
Senator: KANY of Kennebec
Reports were read.

On motion of Representative Jacques of
Waterville, the House accepted the Majority "Ought to
Pass" Report, the Resolve read once.

Committee Amendment "A" (H-1062) was read by the
Clerk and adopted.

Under suspension of the rules, the Resolve was
read a second time, passed to be engrossed as amended
by Committee Amendment "A" 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 appearing on Supplement No. 5
were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES
Pursuant to Joint Rule 13

From the Committee on Judiciary on Bill "An Act
to Modify Joint and Several Liability in Medical
Malpractice Actions" (H.P. 743) (L.D. 1026) (Received
by the Clerk of the House on April 5, 1990 Pursuant
to Joint Rule 13)

On motion of Representative Paradis of Augusta,
tabled pending further consideration and later today
assigned.

CONSENT CALENDAR
First Day

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

(H.P. 1776) (L.D. 2444) Bill "An Act to Make
Supplemental Allocations from the Highway Fund for
the Fiscal Years Ending June 30, 1990, and June 30,
1991" (EMERGENCY) Committee on Transportation
reporting "Ought to Pass" as amended by Committee
Amendment "A" (H-1064)

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

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

CONSENT CALENDAR
First Day

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

(H.P. 1753) (L.D. 2416) Bill "An Act to Establish
Fees for Nonferrous Metal Mining" (EMERGENCY)
Committee on Energy and Natural Resources reporting
"Ought to Pass" as amended by Committee Amendment "A"
(H-1065)

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

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

PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE

Resolve, to Name the District Court Facility to
Be Built in Presque Isle the Julian W. Turner
Courthouse (H.P. 1811) (L.D. 2483) (Presented by
Representative LISNIK of Presque Isle) (Cosponsored
by Representative MacBRIDE of Presque Isle, Senator
COLLINS of Aroostook and Speaker MARTIN of Eagle
Lake) (Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.)

(The Committee on State and Local Government had
been suggested)

By unanimous consent, 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

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:

Utilities

Bill "An Act to Expand the Boundaries of the
Presque Isle Water District and the Presque Isle
Sewer District" (H.P. 1812) (L.D. 2484) (Presented by
Representative LISNIK of Presque Isle) (Cosponsored
by Representative MacBRIDE of Presque Isle, Senator
COLLINS of Aroostook and Speaker MARTIN of Eagle
Lake) (Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

REPORTS OF COMMITTEES
Divided Report
Later Today Assigned

Majority Report of the Committee on Energy and
Natural Resources reporting "Ought to Pass" as
amended by Committee Amendment "A" (H-1069) on Bill

"An Act to Correct Errors in the Solid Waste Laws" (H.P. 1705) (L.D. 2354)

Signed:
 Senator: LUDWIG of Aroostook
 Representatives: ANDERSON of Woodland
 GOULD of Greenville
 LORD of Waterboro
 MITCHELL of Freeport
 SIMPSON of Casco
 MICHAUD of East Millinocket
 COLES of Harpswell
 JACQUES of Waterville
 DEXTER of Kingfield
 HOGLUND of Portland

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-1070) on same Bill.

Signed:
 Senators: ERWIN of Oxford
 KANY of Kennebec

Reports were read.

On motion of Representative Jacques of Waterville, the House accepted the Majority "Ought to Pass" Report, the Bill read once.

Committee Amendment "A" (H-1069) was read by the Clerk.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: The main difference of the Majority Report and the Minority Report is the fact that the two on the Minority Report wanted to include hazardous waste with the Solid Waste Bill. The Majority Report does not allow this. It was the feeling of the Majority that this should not be, that if the Solid Waste Bill does the job that we gave them last year, they are going to have everything they can do without increasing their work. So, I would ask you to go with the Majority Report, stay with it right straight through.

Subsequently, Committee Amendment "A" was adopted. Under suspension of the rules, the Bill was read a second time.

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

**Divided Report
 Later Today Assigned**

Eight Members of the Committee on Energy and Natural Resources on Bill "An Act to Regain Full Use of Maine Waters through the Establishment of Color Standards" (H.P. 1418) (L.D. 1970) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-1067)

Signed:
 Senators: ERWIN of Oxford
 KANY of Kennebec
 Representatives: MICHAUD of East Millinocket
 JACQUES of Waterville
 HOGLUND of Portland
 MITCHELL of Freeport
 COLES of Harpswell
 SIMPSON of Casco

Three Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-1068)

Signed:
 Representatives: GOULD of Greenville
 LORD of Waterboro
 ANDERSON of Woodland

Two Members of the same Committee on same Bill report in Report "C" that the same "Ought Not to Pass"

Signed:
 Senator: LUDWIG of Aroostook
 Representative: DEXTER of Kingfield

Reports were read.
 On motion of Representative Gwadosky of Fairfield, tabled pending acceptance of any report and later today assigned.

**Divided Report
 Later Today Assigned**

Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1066) on Bill "An Act to Establish an Air Quality Increment Standard for Nitrogen Oxides" (H.P. 1778) (L.D. 2445)

Signed:
 Senators: LUDWIG of Aroostook
 KANY of Kennebec
 ERWIN of Oxford

Representatives: ANDERSON of Woodland
 COLES of Harpswell
 LORD of Waterboro
 DEXTER of Kingfield
 GOULD of Greenville
 MICHAUD of East Millinocket

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

Signed:
 Representatives: HOGLUND of Portland
 JACQUES of Waterville
 MITCHELL of Freeport
 SIMPSON of Casco

Reports were read.

Representative Coles of Harpswell moved that the House accept the Minority "Ought to Pass" Report.

On motion of Representative Jacques of Waterville, tabled pending the motion of Representative Coles of Harpswell that the House accept the Minority "Ought to Pass" Report and later today assigned.

The Chair laid before the House the following matter: Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-633) on Bill "An Act to Amend Maine's Underground Oil Storage Law" (S.P. 632) (L.D. 1725) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" (S-633).

Representative Jacques of Waterville offered House Amendment "A" (H-1071) to Committee Amendment "A" (S-633) and moved its adoption.
 House Amendment "A" (H-1071) to Committee Amendment "A" (S-633) 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 a second time.

On motion of Representative Webster of Cape Elizabeth, tabled pending passage to be engrossed as amended and later today assigned.

At this point, the Speaker resumed the Chair and called the House to order.

On motion of Representative Clark of Millinocket, the House reconsidered its action whereby Bill "An Act to Amend the Charter of the Quantabacook Water

District" (EMERGENCY) (H.P. 1802) (L.D. 2473) was referred to the Committee on Utilities.

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

The following items appearing on Supplement No. 8 were taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 1773)

Representative NADEAU from the Committee on Housing and Economic Development on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Commit State Support of Affordable Housing (H.P. 1813) (L.D. 2485) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1773)

Report was read and accepted, the Resolution read once.

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

Ought to Pass Pursuant to Joint Order (H.P. 1483)

Representative MELENDY from the Joint Select Committee on Corrections on Bill "An Act Relating to Correctional Policy" (H.P. 1814) (L.D. 2486) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1483)

Report was read and accepted, the Bill read once.

Under suspension of the rules, the Bill was read a 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.

PAPER FROM THE SENATE

Bill "An Act to Allow the Maine Health Care Finance Commission to Make Individual Hospital Development Account Interim Adjustments" (S.P. 1001) (L.D. 2482)

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

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed 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. 1464) (L.D. 2041) Bill "An Act to Make Changes to Certain Motor Vehicle Laws" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1072)

(H.P. 1570) (L.D. 2175) Bill "An Act Concerning Political Campaign Financing and Reporting" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1074)

(H.P. 1712) (L.D. 2363) Bill "An Act to Amend the Solid Waste Landfill Remediation and Closure Laws Administered by the Department of Environmental Protection" (EMERGENCY) Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1075)

(H.P. 1728) (L.D. 2387) Bill "An Act to Form a County Corrections Department for Cumberland County" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1078)

There being no objections, under suspension of the rules, Second Day Consent Calendar notification was given, the House Papers were passed to be engrossed as amended and sent up for concurrence.

(Off Record Remarks)

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

(At Ease to Gong)

The House was called to order by the Speaker.

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

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1990 (EMERGENCY) (H.P. 1815) (L.D. 2487) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1990 (EMERGENCY) (H.P. 1816) (L.D. 2488) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

Ought to Pass Pursuant to Joint Order (H.P. 1484)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1990 (EMERGENCY) (H.P. 1817) (L.D. 2489) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1484)

Report was read and accepted, the Resolve read once.

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

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

PAPERS FROM THE SENATE

Unanimous Ought Not To Pass

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Define Severance Pay Liability in Business Combinations" (EMERGENCY) (S.P. 946) (L.D. 2396)

Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act Concerning the Dismissal of Employees of a Corporation That Has Been the Subject of a Takeover" (S.P. 945) (L.D. 2395)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in 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. 1682) (L.D. 2328) Bill "An Act to Implement the Recommendations of the Court Jurisdiction Study" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1077)

(H.P. 1704) (L.D. 2353) Bill "An Act Concerning Child Support Guidelines" (EMERGENCY) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1079)

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

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. 9 were taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED

Bill "An Act to Amend the Maine Criminal Code with Regard to Drugs" (H.P. 1803) (L.D. 2474)

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

**PASSED TO BE ENGROSSED
As Amended**

Bill "An Act to Improve Protective Services for Incapacitated and Dependent Adults" (H.P. 1754) (L.D. 2417) (C. "A" H-1041)

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

Representative Hanley of Paris offered House Amendment "A" (H-1047) and moved its adoption.

House Amendment "A" (H-1047) was read by the Clerk and adopted.

Representative Tammaro of Baileyville offered House Amendment "B" (H-1080) and moved its adoption.

House Amendment "B" (H-1080) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-1041), House Amendment "A" (H-1047) and House Amendment "B" (H-1080) thereto and sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1066) on Bill "An Act to Establish an Air Quality Increment Standard for Nitrogen Oxides" (H.P. 1778) (L.D. 2445) and Minority Report of the same Committee reporting "Ought to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Coles of Harpswell that the House accept the Minority "Ought to Pass" Report.

Subsequently, on motion of Representative Coles of Harpswell, the Minority "Ought to Pass" Report was accepted, the Bill read once.

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

The Chair laid before the House the following matter: Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "B" (H-1050) on Bill "An Act to Protect the Public from Unsafe Industrial and Commercial Facilities" (H.P. 1249) (L.D. 1747) and Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "C" (H-1051) on same Bill which was tabled earlier in the day and later today assigned pending acceptance of either report.

Representative Pineau of Jay moved that the House accept the Majority "Ought to Pass" Report.

Representative Webster of Cape Elizabeth moved that L.D. 1747 be tabled until later in today's session.

Representative Gwadosky of Fairfield requested a Division on the tabling motion.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative of Cape Elizabeth, Representative Webster, that L.D. 1747 be tabled until later in today's session pending the motion of Representative Pineau of Jay that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Marsano of Belfast requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative of Cape Elizabeth, Representative Webster, that L.D. 1747 be tabled until later in today's session pending the motion of Representative Pineau of Jay that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 217

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

NAY - Adams, Aliberti, Allen, Anthony, Bell, Boutillier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Heeschen, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Lawrence, Lisnik, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, McSweeney, Michaud, Mills, Mitchell,

Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, Oliver, Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rotondi, Rydell, Sheltra, Simpson, Skoglund, Stevens, P.; Swazey, Tammaro, Tardy, Townsend, Tracy, Walker, The Speaker.

ABSENT - Conley, Crowley, Handy, Hepburn, Higgins, Jackson, Kilkelly, LaPointe, Larrivee, Luther, Marston, McGowan, O'Dea, O'Gara, Paradis, J.; Reed, Rolde, Ruhlin, Seavey, Sherburne.

Yes, 49; No, 82; Absent, 20; Paired, 0; Excused, 0.

49 having voted in the affirmative and 82 in the negative with 20 being absent, the motion to table did not prevail.

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

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: It is indeed unfortunate that Representative Reed is not here to be able to speak to this bill. He did speak with me about it a bit this morning and there are, as I think you will notice, two reports. The question is, what is the difference between the two reports? Obviously, the Majority Report contains more members in favor of the bill than are in favor of what is H-1051, which of course would be the matter before you and would be, I am sure, spoken to by Representative Reed if he were able to be here.

It is always difficult when the House is unable to hear what is the work product of the committee because the House does not agree with tabling motions to convenience people who are temporarily away. If I felt that I would be capable of speaking to the matter as articulately as others, I assure you that I would do that, but I don't have anymore to say about it at this time. Thank you.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 1747 has traveled a fairly long and circuitous route in order to be before the body today. As you may recall, it started out as a seven page bill in the previous session and was studied carefully by the distinguished Committee on Energy and Natural Resources and was reduced a 23 word amendment amending Section 26 MRSA 1709. That amendment was enacted by this body and was sent to the other body at which point it went into, what might be described, as a state of suspended animation for a period of time. More recently, it reappeared before the Joint Standing Committee on Labor as, once again, a seven page bill. I do want to say for the Record that the Joint Standing Committee on Labor has worked very hard on this bill because all members agree that the purpose was noble and that some action was required. I also want to give credit to Representative Pineau and to Representative Mills and to the Chairs of the Joint Standing Committee on Labor who afforded us considerable time to work together in order to come to a single report. Unfortunately, we were not able to agree on all points and that is why the House has before it today two "Ought to Pass" Reports. From the fact that there are two reports, I think it is clear that all members of the Labor Committee agree that action is appropriate. What we disagree on is the scope and nature of the action and I would beg leave of the House to point out very briefly some reasons for the existence of the Minority "Ought to Pass" Report as opposed to the Majority Report.

I think we all agree that no single bill that this body and the other body may enact can prevent all accidents but a good, well drafted bill with

proper focus, applying appropriate standards, can limit the most substantial and most direct threats to the public safety. Those most substantial and direct threats in the minority signers opinion result from the existence of potentially hazardous substances and the people whose job it is to handle, process, store and label those substances. Even the Majority Report recognizes this fact by making a significant turnover in employees as opposed to the passage of time, the trigger for an inspection, so on that point, I think it is fair to say both parties agree that the change of employees is the critical factor. Since the turnover in employees is the trigger and dangerous chemicals are the real threat, the minority signers believe that the focus ought to be on the training of those employees who are handling those chemicals.

The Minority Report uses existing standards in state and federal law governing occupational and public safety, hazardous substance control in court injunctions and would have a court, a completely neutral party during any dispute, close down a facility if a significant risk exists. The Minority Report also has a public notice provision and an equally onerous penalties for non-compliance. I would have to say, in my opinion, the Minority Report, having been developed in considerable concentration with the department heads who would enforce such legislation, is more workable. In the minority signers opinion, the scope of the Majority Report is somewhat too broad, that there are many other laws already on the books to provide important protection and that the OSHA legislation, the Maine Emergency Planning and Community Right-to-Know Act, the Hazardous Materials Transportation Act, the OSHA Standard Communications and State and Federal Hazardous Waste Regulations and Spill Prevention and Control countermeasure plans will provide the necessary protection. It is for that reason that there is a Minority "Ought to Pass" Report and, for that reason, I would ask the House to oppose the Majority Report so we may accept the Minority "Ought to Pass" Report.

When the vote is taken Mr. Speaker, I respectfully request that it be taken by the yeas and nays.

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

Representative MILLS: Mr. Speaker, Men and Women of the House: It is true that this bill was before this body and has been worked on very much by the Committee on Labor and I appreciate that. It is also true that two sides came very close to agreeing on most subjects but there are a few subjects that they did not agree on and I think, for those reasons, that you would vote for the Majority Report today.

I think one of the most important things to me, in looking at this situation, is you are looking at a situation where you have an industry that over 50 employees who suddenly replaces those employees or has new employees who are dealing with hazardous materials, materials that could cause harm to the public and to the environment, the question is, are we going to make sure that we go in there and have somebody enforce the laws that are supposed to be obeyed before we have an accident? Both sides seem to agree that, although we have laws on the books, we want to make sure that we have someone go in beforehand to try to prevent the accident instead of going in after the accident happens and fining them. Both sides seem to agree on that.

Two of the biggest things I feel are more important about the Majority Report is the fact that, while the Minority Report, as Representative Reed mentioned, does allow the public to be involved with

the public notice, it does not allow the public to have a comment period. I think that is very important. It is a public safety bill but the public should have a comment period where they can write in their concerns about the area and people who know about the concerns that my people in that facility have, can make those known. I think that is very important.

I would think also, when you look at the bill, the major difference between the two bills is the idea of what the inspection implies. The Majority Report makes sure that, when the inspection is done, it is not only going into make sure that the people who are doing the job have been trained to do the job, not just checking the records, but checking and making sure that those people actually have been trained. They also should check the equipment to make sure that that equipment is safe. I think we all know what happened in the Jay area when we had people in there who were working there and didn't know what they were doing. You had a tragedy that could have been one of the biggest tragedies in the state's history if it hadn't been for the way the wind was blowing that day. I think it is important for us to look at that particular example that happened in that town and say we have been warned and let's do something about it.

I think the strongest way to do something about it is to go with the Majority Report. It allows the businesses to keep going, still be operating the whole time the inspection is going on, and I think it is important to realize that we are not shutting somebody down, we are just going in to make sure that people are trained and are doing what the law already says they should be doing. Again, I hope you will realize that it is the Majority Report and I hope that you will go with that.

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

Representative PINEAU: Mr. Speaker, Men and Women of the House: I will be real brief. I think Representative Mills and Representative Reed hit the points very well on each issue.

The no-shutdown time on the Majority Report, the Department of Labor in charge of the inspection and being able to contract out people they need for their expertise, more than half the work force has to be replaced before the trigger would kick in, plus the fact that the municipality-at-large would have to at risk -- I think these were all worked on and worked on by the Committee as Representative Reed said.

However, what happened in Jay, I was there and it was my kids in those schools, I would like to believe that this body is going to act and promise the people of Maine, whatever municipality you are in, that if the situation arises again, the State Department of Labor, DEP, and the people in the know, will be able and will give them the enabling legislation to promulgate rules to see and do the best the state can do and be active rather than reactive.

Mr. Speaker, a wise man once said, "Those who disregard the past, condemn the future." I hope this body doesn't do that. I hope you vote for the Majority Report.

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

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

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

ROLL CALL NO. 218

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, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Luther, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tamarro, Telow, 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, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Norton, Paradis, E.; Pendleton, Pines, Reed, Richards, Ridley, Small, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Hepburn, Jackson, LaPointe, Larrivee, Macomber, Marston, McGowan, Richard, Rolde, Seavey, Sherburne, Tardy.

Yes, 93; No, 46; Absent, 12; Paired, 0; Excused, 0.

93 having voted in the affirmative and 46 in the negative with 12 being absent, the Majority "Ought to Pass" Report as amended by Committee Amendment "B" (H-1050) was accepted, the Bill read once.

Committee Amendment "B" (H-1050) was read by the Clerk and adopted.

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1069) on Bill "An Act to Correct Errors in the Solid Waste Laws" (H.P. 1705) (L.D. 2354) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Constantine of Bar Harbor, the House reconsidered its action whereby Committee Amendment "A" (H-1069) was adopted.

The same Representative offered House Amendment "A" (H-1081) to Committee Amendment "A" (H-1069) and moved its adoption.

House Amendment "A" (H-1081) to Committee Amendment "A" (H-1069) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Constantine.

Representative CONSTANTINE: Mr. Speaker, Members of the House: This amendment asks the legislature to delay the ban on aseptic packaging for soy milk until July 1, 1991. This delay will allow soy milk to be sold in Maine until manufacturers can modify their packages to comply with Maine's solid waste laws.

Earlier today, I distributed a fact sheet about soy milk which was presented by Soy Milk Association of America which just happens to be located in Bar Harbor and that is why I am speaking on this issue. On their behalf last October, I introduced a total exemption for soy milk to the Legislative Council. This request by soy milk consumers was intended to give soy milk products the same packaging exemption that dairy products have. Soy milk is a product that is recognized and prescribed by doctors and nutritionists as an important substitute for cow's milk for consumers who are allergic to cow's milk. Thousands of families in this state regularly drink soy milk using it as one of their primary sources of dietary protein. Unfortunately, the Legislative Council ruled that my request was essentially similar to the request for the total exemption of all aseptic packaging and the needs of soy milk consumers got tangled up in the juice box ban debate and, incidentally, seems to still be tangled up in that debate.

Currently, most soy milk is sold in two ways in the United States, the most popular method representing over 90 percent of all sales is in aseptic packages. The balance is sold fresh and refrigerated in paper milk cartons or plastic jugs. Fresh soy milk is primarily sold in metropolitan areas such as New York, San Francisco and Los Angeles where there are large Asian populations. The fresh products are produced by small companies with very limited production capacity. In Maine, there is no soy milk dairies. Four dairies existed in Maine over the last ten years but all have gone out of business.

The two soy milk types, aseptically packaged and fresh refrigerated differ tremendously in taste and usability. The fresh product is produced with much of the beany flavor left in, a taste which Orientals prefer but which Caucasians do not. These products are sold mostly in urban Oriental markets where demand and turnover is high. Fresh products have a shelf life of two to seven days and are difficult to distribute over distance. As for powdered soy milk, many consumers aren't willing to use this product because it takes additional time to prepare and doesn't taste as good.

All four manufacturers currently packaging soy milk in the U.S. have chosen aseptic packaging to facilitate distribution and handling. Soy milk manufacturers are committed to finding a package that will be acceptable for sale in Maine but need time to research and implement it. A deadline of September 1, 1990 is not ample time for these companies to respond to the State of Maine's new solid waste law, but moving the deadline to July 1991, will allow soy milk drinkers of Maine to continue to purchase aseptically packaged milk while manufacturers seek alternative forms of packaging to comply with that law.

Thank you, I urge your support to vote yes on House Amendment 1081 and respectfully request a roll call.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, I move the indefinite postponement of House Amendment "A."

It is with deep regret I have to get up to move indefinite postponement of House Amendment "A".

Although I do agree with the good Representative from Bar Harbor, when the committee had dealt with this issue in the solid waste bill, I was not there and they voted unanimously to leave the ban on. The basic reason is, as you know earlier in the solid waste bill, we banned aseptic packaging. The Tetra-Pak Company has been working pretty hard to try to find recycling for their packaging. The concern that the committee unanimously had on this amendment is that if we start weakening it, then the soy milk people will not make their best effort to try to find a different package. I hope you go along with the indefinite postponement of House Amendment "A."

Subsequently, House Amendment "A" (H-1081) to Committee Amendment "A" (H-1069) was indefinitely postponed.

Committee Amendment "A" (H-1069) was adopted.

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

The Chair laid before the House the following matter: Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-633) on Bill "An Act to Amend Maine's Underground Oil Storage Law" (S.P. 632) (L.D. 1725) which was tabled earlier in the day and later today pending passage to be engrossed.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I wanted to wait until the debate over the amendment had taken place but I do have some concerns with this bill and I want to share them with you.

This is not a simple little fund as it was referred to earlier. I am sure you are aware after the debate this morning that this bill includes increases in the price of gas and heating oil which can be viewed as an increase in the gas tax which in my opinion is the most regressive form of taxation and certainly a broadbased tax increase.

One has to wonder why this bill was not before either the Transportation or Taxation Committee but we do have it before us today from the Energy and Natural Resources Committee.

During the debate earlier today, it is my opinion that the Senate Amendment which was taken off only would have made a bad bill worse. I would like the Record to show that, contrary to a little fund, we are creating a \$100 million insurance fund over the next ten years for the oil dealers and we are in the process of creating 17 new positions, 15 in the DEP and two in the Attorney General's office at a time when we are laying off other employees and cutting programs like property tax relief and aid to education. I have a problem with that.

I am also concerned about those citizens, who only a few months ago, were unable to pay their heating bills and we were struggling in this body to find emergency aid which we could send to them. This certainly is not going to reduce their heating oil bills, in fact it will increase them.

I am also concerned on another level. In my opinion, this is an unfunded environmental mandate. I hear often at my local level that education mandates can be expensive, but in this year's budget, environmental mandates seem to be driving the property tax increase.

Not only are our citizens being asked to absorb the cost of this state insurance fund in their heating oil bills and at the gas pumps but let's not

forget what our municipalities and school departments will also have to absorb in their budgets. For example, in this fiscal year ending June 30th, our school buses statewide drove almost 33 million miles this year and certainly anyone can figure that an increase in the price of gas would certainly impact that budget item at the local level.

Another example, 90 to 95 percent of our school buildings are heated by oil. An increase in the price of heating oil would certainly impact that budget item at the local level.

I am concerned that between the deductibles as listed in this which are on a scale and the \$1 million to which one person could be eligible, this is no-fault insurance for the oil dealers at the expense of the taxpayers.

As we vote on this today, I would hope that you would consider some points to which I have given some thought. First of all, Maine oil dealers do not need a \$100 million fund. I think their needs can be addressed by a much smaller fund which could be an industry, self-insurance fund, designed to include the smaller dealers.

Number two, I do agree that public policy is important protecting our water supplies and they are sound. Cleanups, however, can be continued through the bonding process which allows the voters to decide and it also holds the oil dealers accountable for their oil leakages between the deductible and a million dollars.

I do believe in protecting the importance of protecting our ground water. I served as Chairman of the Maine Water Supply Study Commission, I have a vital interest in protecting our water, but I believe there are other viable options available. I think this is an industry responsibility and it should not be resolved through a state insurance fund supported by the gas tax.

Further, when we are tightening our belts to address a slowing economy, I cannot put my hands in another pocket of the taxpayer to fund no-fault insurance for the industry and in the process create 17 new state jobs.

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

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I don't rise to debate the merits of this bill with the Representative from Yarmouth, merely to answer a point that was brought up in her address to the House and the technical answer to that question -- the reason that this bill was never in front of the Transportation or Taxation Committee is that those two committees do have jurisdiction over the gas tax and have exercised that jurisdiction. The gas tax is contained in Title 36 and, if this bill had amended Title 36, we would have had it in front of our two committees. However, the bill addresses Title 38 which is a fee schedule and falls under the jurisdiction of Energy and Natural Resources.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: (mike not on).....This fee will be passed on. I believe it is in the Record that it will be passed on to the consumer and it may be technically called a fee, we talk about revenue enhancers and other forms, but in my opinion, this acts like a tax on the taxpayer.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: A leaking underground gasoline tank can be a very expensive and harmful proposition. In several cases, leaking underground tanks have cost well in excess of \$1 million to clean up. I don't think anyone on the committee likes this bill and they didn't particularly like dealing with it. It was a tough issue but the fact remains, if we don't pass a bill like this, there will be no gasoline available in the rural parts of this state and you will have to go to a large town and a large distributor to buy gasoline. The reason for that is the federal government is going to require every tank owner to have insurance. The insurance is unavailable and the small stores, especially the stores serving small towns in rural areas, are just not going to be able to get any insurance and they are going to go out of business and you will have to go to places like Augusta and Waterville or Newport to get gasoline and there are no other places that are going to have them. That is just the way it is.

Also, you ought to remember that almost every other state and certainly all states that have large rural populations are passing similar legislation either last year or this year. So, it is nothing new, it is something that all states have had to deal with.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I doubt, Representative Mitchell, that there won't be any small ones around. All you have got to do is call, say, Casey Irving, he will put one at every other house. He owns part of Maine now and he will probably own it all in the gasoline division. He has even called me and wanted to put my tanks back in the ground. I took my tanks out and it only cost me \$600. I don't know where they are getting all the millions of dollars for taking these tanks out, you can take a tank out in eight hours with a pickax and shovel.

I think this bill, like the lady across the aisle said, it should go down the drain with all the accompanying papers.

There is plenty of gasoline around, there are plenty of small stations.

How do we know these people are going to buy all this insurance when it comes out?

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I find the comments from the Representative from Yarmouth really interesting, remarkable.

It is true what Representative Mitchell said, the committee did not like this bill very much. We would much prefer a situation where the private insurance market was able to provide the insurance needed by gasoline businesses all around the state. It is not just the small people who can't get it, it is anyone below the size of the petroleum refinery, the majors like Irving, Mobil and Texaco. Even people who have 20 and 30 stations have had their insurance cancelled in the last two months, every single one of them in Maine, it is simply not available any longer.

We would also prefer a situation where those responsible for leaking oil and gasoline tanks would admit that responsibility and put up the money to clean it up right away and make good the damages and replace the water supplies that are contaminated, to learn to put air filters in houses that have the gasoline vapors inside the house and so on, but that doesn't happen either.

The Department of Environmental Protection has told us that not one single person responsible for a gas leak in the State of Maine has ever admitted that responsibility in a legal sense, not a single one. Every single one fights tooth and nail to avoid paying for the consequences of their own actions.

Public policy here, I think, should be focused on cleaning up the leaks and making good the damages. I don't think it is good public policy for people to spend two, three or four years fighting to get the money to replace a water supply or to filter the air in their house or to pump the gasoline out from around their house. That is what happens over and over again in the state. The only way that the state can remedy this situation is to have the money to go in and do the cleanup itself, not wait for the private party involved or the responsible party to finally be forced to admit responsibility through a court ruling after years of trial. The only way the state can ensure a prompt cleanup and making good of the damages is through using money available to the state and doing the job itself.

This money, it is true, is not a gasoline tax, it is an increase in existing fees and those fees, both the old ones and the increase, fund something called the Ground Water Cleanup Fund. This was created several years ago by this legislature when we set up the schedule for removal of underground tanks and a program to remediate leaks. That program, as you heard me describe, hasn't worked nearly as well as we had hoped it would. We have to do something further to get these cleanups done promptly.

As to who will pay for it -- one way or another, the consumer is going to pay for it. If we did it, we just get to use our present program, the gas stations would end up paying for it eventually and they would charge higher prices. This way we get the cleanup done immediately and we pay a little bit higher price as well. There is no guarantee in fact that we are going to have to pay a higher price, they may choose to absorb that cost because they no longer have to buy insurance, they have an extra margin there to pay for some of this cost without raising prices. It will be interesting to see what the gas stations do around this state in this regard.

This bill had full support of the Governor's Office. In the multi-million dollar fund described by Representative Foss was based upon actuarial work done by the Bureau of Insurance. We didn't pick that number out of the air, that was based on analysis by the state's own insurance experts of exactly how much money was needed and for how long that money would be needed.

In the bill, we provide for the whole thing to stop in the year 2000, I think it is. We do not have this thing going on forever because, in the year 2000, all gas tanks in the State of Maine will be modern gas tanks, all underground tanks. They will be the current fiberglass kind with stringent monitoring requirements around them or they will be double-walled tanks that will detect leaks before they reach the ground. This is not an unfunded mandate.

Towns that have leaking gas tanks bear tremendous liabilities. In the case of Friendship, it was around a million and a half dollars. The average cost of an incident is around \$30,000 to \$40,000. I think Representative Murphy from Berwick might be able to tell you about one over in her area that is already up to \$700,000 and is going to run well past \$1 million. How many towns want to take that kind of risk? Towns, of course, would prefer to purchase insurance against that kind of risk but that insurance is not available. Instead, that insurance

is being purchased by allowing them access to this fund. If there is an incident involving a town tank, they will have to pay the deductible that applies to them, probably a \$5,000 deductible. Paying \$5,000 is a pretty cheap price to have protection against the kinds of risk that leaking underground tanks can bring to a town. They bear those risks in any case, all we are doing is making those risks affordable.

Schools -- the same situation applies. Any reasonable school board member in this state would not be reasonable in fact if they did not want to have the protection that this insurance fund provides. Can you imagine what would happen to property taxes in some of the small towns if suddenly there was an \$800,000 charge in one year to clean up a leaking underground tank? It would be up in the legislature asking for us to put up the money to pay for that. Well, that is exactly what we are doing right now. This bill, as much as we may not like the idea of doing it, must be done. We need it very much, the people of the State of Maine need it very much and our towns and schools need it very much.

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

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

To anyone on the Committee -- I would like to ask, is there a cap on this and do other New England States have a cap?

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

The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Members of the House: In answer to the question, New Hampshire has a \$15 million cap, Vermont has a \$3 million cap, Connecticut has a \$15 million cap, Massachusetts has a \$30 million cap, Rhode Island has a \$20 million cap. Maine, no cap.

The reason we didn't put any cap on in the State of Maine, we were advised that they would generate between \$12 and \$13 million, in view of the fact that the cases they have pending and the spills, the underground pollution we have had, would use up this \$13 million. If they want a cap on there, I would be willing to put an amendment on to put a cap on and we certainly, we certainly are not planning for any \$100 million program or have a fund for anyone for \$100 million, that is ridiculous.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: The reason I rise today, I am going to oppose this piece of legislation and I will tell you why. I heard the gentleman from Harpswell say that this is not a tax increase. I don't care what you call it, it is a fee increase, it is a tax increase on gasoline. You know, we have been talking about solid waste out there, clean up our dumps, why didn't we put a tax increase on solid waste rather than having a bond issue? Why don't we put a broadbased tax increase here to do something about general purpose aid for education? We are coming in here today and we are talking about a tax increase on gasoline, call it anything you want, whether it is a fee or whatever it is, it is a tax increase.

I heard him say that the administration supports it. How can you support one issue and not the other? I am going to go out of here, if you want my support to do something to reduce the property tax, if you want to come in here and support an increase in gas tax to take care of the underground fuel

tanks, fine, but let's get together and do something for these other programs.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I hope you would vote against the motion. I will be very brief.

This bill is supposed to do two things. One, it is supposed to help clean up the leaks more swiftly than what they have in the past.

Second, why it is very important is because of a federal mandate that these gas stations have to have insurance. They have to have insurance. EPA had delayed that requirement once to allow the states to set up such funds as the fund that we had set up here. The 38 other states have such a fund. So this need is not to raise the gas tax just to clean up, the fund is also to provide insurance.

I have received many, many letters from small gas station dealers. One is from Stonington, R. L. Greenlaw and Son. They are very concerned because the only place that they were able to get insurance to meet the federal law was through Petromark which went bottoms up. Mr. Greenlaw from Stonington that sent me a letter urging support of this bill is because Petromark is basically going under, they want (by April 9th) \$34,000 to help bail them out so they can continue it. That is putting good money after bad money.

I would hope you would go along and vote against the indefinite postponement and vote for this bill. It is a very needed bill, not only to provide the insurance for the small dealers who can't get insurance, not that they can't afford it, they can't get it, and to help cleanup the leaks a lot more swiftly.

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

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

To any member of the committee, is this fund going to just set up a pool whereby those entities that possibly are uninsurable or cannot obtain insurance will receive it? Will it also provide monies to remove those tanks from those small gas stations?

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

The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: The answer to Representative Boutilier's question is yes and no. It does not provide money to help remove the tanks.

I would like to respond to two concerns that have been just raised of whether this is indeed a tax or a fee increase. It has been explained by Representative Coles very clearly that this is not a tax, this is a fee increase. There is a difference to those people who want to argue over and over again and I -- we no longer have Representative Zirnkilton here -- but he would argue differently. What this bill does is it makes it possible that gasoline prices at the pump could actually go down. I know that is going to sound a little bit incredible to some people but, if you consider and if you know what is going on right now in the gasoline market, many, many of these small operators have been operating for years now without insurance. They have had to go and replace their tanks at high costs, costs that our

committee ought to investigate as to whether they were reasonable or not.

Second of all, this was an industry solution. This came from the Maine Oil Dealers. This was their solution, this was the way they created a self-insurance fund, if you want to call it that. This was their bill and this was why the earlier debate today centered on a bit of skepticism as to whether there was benevolent interests that were really motivating this legislation. Well, I lost that argument but my point here is that this was how they, the Maine Oil Dealers, the people who are affected by this thing, wanted to create a way to bring insurance companies into this market. You can go out today, if you want to insure anything, you can insure anything in the world, but you have to pay a premium to do that. Companies like Lloyd's of London exist for that reason. But what the real question is, is that insurance affordable? The committee in trying to deal with this problem found out that it is not. This will make it affordable and where we get this penny -- and this is where I resent the press reporting this issue -- what we are talking about is raising the cost of the price of gasoline at the pumps by approximately a penny in order to implement this bill, that is assuming that there are no other cost savings involved. That is where that figure comes from, it is not a penny tax on gasoline. If we implemented a penny tax on gasoline, you would be paying a penny more at the pumps. So, I hope that is very clear and I hope you do support this bill. I will be supporting it despite the fact that it excludes refineries.

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

Representative BOUTILIER: Mr. Speaker, I would like to pose one more question.

My question is to Representative Foss. Obviously, this is a problem that needs to be solved and we are here to try to take those tough problems and create a solution. The committee worked long and hard on this issue, although they didn't have as much time as they might have liked and they have already stated that they didn't like the issue, but they came up with a way to deal with the issue of uninsurability and lack of insurance at a reasonable cost so we could deal with those oil tanks that need to be removed. If you are against a fee increase, tax increase, whatever you want to call it, what other alternative do we have to deal with that problem?

The SPEAKER: Representative Boutilier of Lewiston has posed a question through the Chair to Representative Foss of Yarmouth, who may respond if she so desires.

The Chair recognizes that Representative.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: In response to that, I thought I had mentioned the other options which would include a bond issue in the form of a state insurance fund for this very purpose that would have a limit on it. We are presently cleaning up spills through bonding, it would be a much smaller, more controlled way of approaching it and it also would not create the open-endedness of this with all the new positions.

While I am standing, I would like to speak to a few other issues that were brought up today. In reference to the comment made to the person speaking before the prior speaker, of course it is a Maine Oil Dealers bill, that is my response to that. They are coming to the taxpayers to insure their industry. I am standing on the floor today speaking for the citizens, not for the Maine Oil Dealers. I think it

is very clear that this is in their best interests to pass it through to the consumers in this state.

Mention was made earlier of federal mandates -- we hear that daily in Appropriations, you have to do this, the federal government tells you you have to do this. They constantly set our priorities just as the local units suggest daily that we set their priorities. I would wonder if someone has picked up the phone to our congressional delegation and said, if you are mandating insurance, do you have any ideas? If it is your priority, how would you pay for it?

I would like to remind the members of this House that this bill simply puts more pressure on our citizens and on the property tax and I will not do that this session of all sessions.

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

Representative ALIBERTI: Mr. Speaker, Men and women of the House: Please allow me to philosophize. Often times, we listen but we do not hear. One of the most respected and supportive and nonpartisan members of this House got up on his feet just a few moments ago and gave us a dare and a challenge. I support it wholeheartedly. He said, why don't we address a broadbased tax? There is support for that at the grass roots to resolve some of the major problems that we are facing here right now. I would go on Record as supporting it. Would you?

I feel that this type of tax will address all of these broad needs, tanks, education, child care, human services, you name it. Somebody has to have the guts sometime to say that we need a broadbased tax but it cannot be one that cannot be addressed by everyone, never mind one side or the other. There has to be a meeting of minds. We are nickle-and-diming everything here now and the resolution is right out there right now if you want to bite the bit. It is not popular but it is one that is acceptable out there. If you don't believe it, ask some of your constituents whether they would support a tax that would help them resolve these problems.

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

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I think as time goes on, we are finding the cost of underground tanks very expensive. Prior to the starting of the session, I was invited to six different places in our community who had underground tank problems. The board of education's cost was \$230,000, the city's was \$210,000, one nursing home was \$80,000 and a boarding home was \$46,000. These people are totally unaware of where they are going to raise this extra capital.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, Ladies and Gentlemen of the House: I rise not so much how to vote on this but to tell you of an experience that my community had with this. In late 1979, a service station in my community was found to be contaminating wells. First it was two and three and it ended up being I think a dozen wells when it was done. About two months ago, in January of 1990, the new water supply was turned on for that, that was almost eleven years from the contaminated water until the new water. In many ways, this bill that we are talking about today isn't really talking about gas, it is talking about water that we take for granted every day. We think that we inherit it from our parents, but we don't, we borrow it from our children. This

particular fund, although it is not a good tax, I guess you are going to have to call it that, it probably is a necessary tax. I think perhaps a way to look at it would be to instigate this and look for a better way which might be for self-insurance, but in the process, we might be saving many more wells.

At this point, the Speaker appointed Representative Gwadovsky of Fairfield to act as Speaker pro tem.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker and Members of the House: The Representative from Penobscot, I think, has brought the issue back to where it ought to be in the discussion of what we are trying to do. I don't particularly like the method either in terms of how we are going to raise the fund in order to save and to try to protect Maine's water sources. I must admit that I don't particularly care where the idea came from, whether it came from Maine Oil Dealers or it came from someone else.

I am going to relate to you a story of present law and why I feel as strongly about it as I do. It is in the Town of St. Francis, this happened about five years ago when a couple of tanks started to leak and they polluted a number of wells. As a matter of fact, one home is still unoccupied as a result of that. At that time, it was an operation that was Gulf Oil, operated by Putnam Brothers of Houlton, which subsequently was sold to W. S. Small of Ellsworth and then, as you know, Small ended up selling their operation to Irving Oil. The leak began at some point before Irving ever acquired ownership. Irving basically disavowed themselves from responsibility because they felt it wasn't their fault. Arbitration was brought forth by the individuals involved and we are now in our fifth year of trying to provide clean, clear and decent water to a number of families in the community.

The last offer that has been made is to provide one well that would potentially supply water to five homes at a cost of about \$100,000 and that, of course, is being fought.

One thing that I made sure that this bill did, if nothing else, was that I didn't care whether it was the producer, the owner of the business, or whomever, but that the fund would start immediately the day after the spill occurred to provide water and to attempt to clean up the situation. There is all the concern in the world about who is polluting but, let me tell you, when you reach a situation where you are that one family and you have three children, as was the case in this particular home, and it has been five years through that process, then you can rest assured it has been fought through arbitration and everyone has been fighting and the lawyers have been winning to the detriment of the people involved. It seems to me that the time has come to make sure that the individuals who are affected by the spill will be able to get water into that home and to have a method of repayment to take care of their problems. This legislation is necessary today.

I agree with the Representative from Lewiston, Representative Aliberti, that it would be nice to do it some other way, but I am a realist. To the Representative from Corinth, Representative Strout, I

share his concerns but we have to deal with what we have to deal with. The people of Maine have given us who sits in the Governor's office and who sits in the House and who sits in the Senate and we deal with the realities of that.

Sometimes I get asked by some of you, how did you ever put that person on the committee? You have heard my response, I can only put those people that the people have sent. We need to deal with reality. Next year, we can find a better way to fund this, by all means we ought to do it. In the meantime, we ought not to let Maine citizens suffer.

I am not worried about the big boys and the big girls, so to speak, the large corporations of America will defend themselves. You have all seen it with the spill in Alaska. They will defend themselves but the person who has absolutely no means and lives on a week-to-week paycheck, they cannot afford to fight in court and they suffer and they pay the price.

I hope today you will not indefinitely postpone this bill and that you will let it become law because someone has to pay and, unfortunately at the present time, it is the only method we know how.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I am a little upset when somebody tells me that this is an oil dealers bill and we all went along with it because of the oil dealers.

I will tell you why I went along with this bill. There is a gentleman who called me, he lives in Representative Joseph's district, he is a good Republican and there are some good ones around I will admit that, he owns Thompson's Volkswagen in Waterville and he owns two small gas stations, both of which are in Representative Joseph's district. He made it very clear to me that he was told, and up until now he was always able to get insurance, that his insurance had been cancelled, he could not receive it elsewhere.

He has 15 people employed between those two gas stations and he said, "I would like to keep the gas stations going, I don't make a lot of money at them, it pays for my help, my overhead, and it keeps those 15 people that have been with me working. I can assure you that before I jeopardize Thompson's Volkswagen because I can't get insurance to cover those two gas stations, they are going to be shut down."

I don't know about you but I used to know the owner and owners of every gas station in my district. I will say I used to know because they used to be all owned by regular small-time family people. Most of those gas stations, one person got ill, Cumberland Farms now owns it. There was one that was owned by Buddy Fitch, he retired, Dead River bought it and now the Big Apple owns it.

In my district, there were some gas stations, there was the South End Filling Station in the lower part of my district which was owned by a family named Belliveau. They just were overcome by the fees and the problems of the underground tanks because they were right on the shores of the Kennebec River. They pulled their tanks, they are now out of business. So, anybody on the south end has to go to what used to be Dead River, which is now the Big Apple, and pay whatever they charge unless you want to drive to the other end of town.

There are still two gas stations in my district, one is owned by Alan Wood, his wife, and his son Randy. They all work there. She works for the state but every night she gets done the job over across the

river where she works, she goes there, she does the books and takes care of the accounting. Randy who is their son works in the gas station. They bought that from Bud Bard and his family, who I have known for many years who has served on the Credit Union Board of Directors with me. Those people would like to stay in business. They have a good little business going, they pump gas, it's a little more money, but you get the full service, you get the windshield cleaned, you get the whole ball of wax.

The other one is owned by a fellow named Lucien Mathieu up in the other end of my district, which is near Interstate 95. He just built a brand new station, has brand new tanks, put a car wash system in there but he told me, unless we need some help, we are not going to be able to afford that insurance. Without that insurance, my family can't stay in business. I went there the other day and his wife was collecting money for the car wash and some of his kids were out there pumping gas. This isn't Mobil, this isn't Exxon, this is Alan Wood, his wife, and his son. This is Mr. Mathieu and his wife and his family.

I don't like this idea any better than anybody else, I really don't, but we had no choice the way I look at it. The concern I have is, that in the rural areas and those of you that represent rural areas, are going to have some problems. These little Mom and Pops, the first people that you go see to put your campaign literature in their window, your signs on their lawn and your literature on their counter, need our help. I would love to be able to say we are going to take the money out of General Fund and everybody is going to pay for it out of the General Fund and provide that insurance for you. I would love to say we are going to pass a bond issue, which I think is a pipe dream at this time. So when we look at the options before us, we came down with what we did. I didn't do it for Exxon, I didn't do it for Mobil, I did it for Alan Wood and his family and I did it for Lucien Mathieu and his family. That is why I did it. I really, really get upset when somebody tells me I did this for the benefit of the Maine Oil Dealers. I don't have much use for the Maine Oil Dealers, I never have. We have got a lot of water that is contaminated, we got to start taking care of it because, believe me, everything else aside, the day you can't drink water, there isn't going to be too many of us around to complain about any of these issues and respond to any of these issues. That is why I did it the way I did and if somebody can come up with a better solution to the problem, I welcome it, I will embrace it, and I will vote for it.

Mr. Speaker, has a roll call been asked for?

The SPEAKER PRO TEM: The Chair would answer in the affirmative.

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

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I agree with most of the points that were made by the proponents of this legislation. I agree that we have an obligation to ensure that we have clean waters in Maine and I agree that this legislative body has recognized its obligation to assure that the potential damage to our water supply that could be caused by underground storage tanks is avoided. There is no question in my mind that this is a serious problem and that it is a problem that the people who are most directly involved have not been able to solve it by themselves.

I agree with the point, particularly the oil dealers but all those people in the Mom and Pop stores who also own underground storage tanks have

had an impossible time finding insurance to protect themselves from these kinds of risks.

I understand that this kind of protection is really critical for them to be able to stay in business. I do not agree that the only way that we can provide that protection for them is to impose this fee.

I have reviewed a study that was prepared by the Superintendent of Insurance that talked about the possibility of establishing a state fund and it indicated in that study that the cost of such a fund would be between \$25 and \$40 million. My understanding of the amount of money that will be raised by this fee would be approximately \$100 million. Let us say therefore that the cost of a self-insurance fund would be somewhere between \$40 million and \$100 million. The critical point in establishing such a fund is to make sure that there is sufficient reserve at the beginning to pay for the risks that are likely to be found in the first critical years of operation of such a fund. I have heard spoken on this floor that the approximate expected risk that would be incurred in the first year would be in the range of \$13 million. It seems to me that the bond issue proposal is far more than a pipe dream but ought to be something that we explore very closely in the next few days. By putting out a bond issue to cover the cost of reserves that would be necessary for such a fund, we would in fact be allowing the people of Maine the opportunity to say whether they are willing to pay for this or not. I think that is really an obligation that we have to those people that we are asking to come up with an additional \$100 million. I hope you will vote for the pending motion.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I just want to comment on Representative Jacques position on this because I have to reiterate but I have to add a supplement to it. This is just not the rural areas that are going to be affected, it is also the urban areas. I know, I am a person who enjoys playing the game of Monopoly and I know what happens when you end up getting a lot of rent and you get a lot of homes and you get a lot of hotels and the people across the board from you don't have as much and they get the big fines and the big costs for landing on whatever house, you make the deals. You say, if you can't afford it, you can give me this and I will forget about the bill. To me, this has a lot to do with that. Those small rural gas stations and the small Mom and Pop urban gas stations, who cannot afford to get the insurance to remove those tanks that they have to remove or cannot get the insurance to remove the tanks, are going to be bought out by someone who can afford the insurance or who has their own insurance. I don't know how many times I have heard in this body, we have to do this and this for the small business owners, the Mom and Pop, we have to keep thinking about them. Well, if we vote to indefinitely postpone this bill, we are not thinking about that group.

If there is an option other than this option, we should have it in front of us at the same time. An indefinite postponement motion is not an alternative in my mind. We have to do something. The committee puts a proposal before us, it is not the best proposal in the world, but it is the only one we have and we can't leave here saying, we don't want to deal with the issue. Those small gas stations will close because they can't get the insurance and, if they don't close, they will sell to the large groups.

As one member of this House, I would like to see some of those small groups, the Wood's of the world keep their family business and work it and provide the customer service they do because they live in the community, they work in the community, they have kids in the community. I want to see that sustained.

The reason I asked the question before about whether the fund would pay for not only insurance but also removal is because I have some concerns that have been raised about removal. I am a school board member in Lewiston as Representative Aliberti is and we have had some real tough decisions on how many tanks we want to remove this year and how many we want to defer until next year. We have got certain mandates that we have to meet and requirements we have to do this year and we are basically in a tough budget year so we are only doing what we are required to do for this year.

I would like to see a large bond issue at some point, not only for schools, but for gas stations and for municipalities and all the rest to fund the removal of those tanks. This is not that issue and this bill does not address that concern. It deals with the gas stations that cannot afford insurance and it is the alternative we have before us and I think we should vote for it. I think it would be extremely irresponsible for this body to kill this act without any other option in front of us. I would urge you to defeat the pending motion.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: It is going to be pretty hard to follow Representative Martin and Representative Jacques but I have got a little story I would like to tell you.

I have a gentlemen that lives across from me and one down below me -- you talk about pollution, our own State of Maine put their wells out of commission and it cost them a lot of money. So, if we are going to put it on for fuel and oil, we should probably put on for salt sand that is running down the ditch and into these wells.

I am telling you, ladies and gentlemen, that we had a Washington County delegation and we had people right in this hall today that want to put a sales tax on to take care of education and property taxes and so forth and so on. Here we are standing here fighting to put a penny tax to the DEP for oil tanks, I just can't really understand it.

When we take the vote, I will be voting the opposite way. I am not going to stand here and tell you people today that the old people want this tax, that people that don't have gas tanks and cars that have to go back to work 30 miles in the woods want this tax, so I will be voting in the opposite.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: I intend to vote against the pending motion and vote for this bill but I hope that a message will go forth from this hall today to the oil dealers that this is not a tax, it is not something that they are required to pass on. As Representative Coles suggested in his remarks, and Representative Simpson said in his, but they spoke generally and I intend to speak only to this point, there ought to be an awareness in the industry that this is a replacement for insurance dollars which are not spent and, as a result of this, there should not be a pass-on of this charge.

I would say to the Representative from Corinth, in whom I have great faith, that I believe when he

buys for his municipality, he will be able to tell those people that sell this fuel oil that, if they pass this on, that there will be some retribution from this legislature in terms of recouping that.

The fact that we try and assist people in this kind of need does not mean that we should be taken advantage of as a body. I assume this body is capable of dealing with that problem. I know that it happens in the insurance field. This is a replacement for insurance and that is all and it should not cost people money.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: I would like to express my appreciation to Representative Marsano for reducing my current remarks by one-third.

I would like to briefly point out to this body that the committee did not do this blindly, we considered a variety of alternatives. One alternative was in fact a self-insurance pool, a mutual insurance fund. There were two basic reasons that argued against it and one was some sort of insurance technical thing and, once they persuaded me it was a valid one, I proceeded to forget it immediately. The other was that it would leave us in the same boat we are in now, fighting over who is going to pay for it while the contamination and the damage continues. The most critical issues, as Speaker Martin said, is getting cleanups done quickly and damages remedied as fast as possible, not leave these people hanging for years and years.

The other alternative we considered was using this money to simply remove all the tanks from the ground to speed up removal, but we were told even if we did that and replaced them with double wall tanks and interior monitoring and the so-called almost leakproof tanks, the insurance would still not be available so we wouldn't be solving the problem that way either. It was only after exploring these alternatives that we finally went back to the original proposal and made it as good a proposal as we could make it.

My final point is, if we do this by bond issue, all taxpayers will pay, no matter how much or how little gasoline or heating oil they use. Doing it this way means that only the people who use the most of this product that causes this problem will pay the most, the people that use the least or don't use it at all will not pay anything.

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 pending question before the House is the motion of Representative Foss of Yarmouth that this bill and all accompanying papers be indefinitely postponed.

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 about to speak in favor of a bill that creates a dedicated account. There comes a time when you have to make hard decisions and I think this is one of them. I would like to approach this from a different perspective, we have been talking about raising money, but I would like to talk about the problem that we face.

Some of you have heard me say this before in private. Last summer, I had the occasion to go to Europe. I have spent a lot of time in Europe. I spent almost eight years there following World War II. That was quite an education in itself. I used to hunt and fish to my heart's content. I used to swim in rivers whenever I felt like it.

Last summer, I visited some of the old haunts and, as you know or if you don't know, I am quite proficient in the language so I get along pretty well with the natives. I get along so well that I was invited to what they call a Stamtisch which is a political gathering place and watering spot in the community. It is a round table and you can join in. Any topic is open for debate, any topic. It doesn't make any difference if it is Gorbachev, George Bush, anything goes.

I also visited a solid waste facility and incinerator plant but I am not going to go into that, that is a long story. I raised the question when I was attending one of those Stamtisch evenings if the locals were able to buy a fishing license because when I was there, that was not a possibility. For one thing, they couldn't afford it, they had been priced out of the market. One was pleased to tell me that they could now purchase a fishing license. I said, "Can you fish all over Germany?" They said, "No, it is restricted to certain areas." I said, "Tell me, now that you can fish, do you catch any fish?" Out comes a smile and "Occasionally yes, if we are lucky we catch a fish." I said, "Now tell me really, when you catch a fish, do you eat it?" He said, "Well, let me tell you, if we are lucky enough to catch a fish, I put it in fresh water and if it lives for a day, I will eat it." That is how bad it is. The ground water is polluted.

It doesn't start necessarily in Germany but the problem is, pollution is rampant in Europe and it starts behind the Iron Curtain, used to be the Iron Curtain, the wall that just crumbled. Many of you think that Gorbachev is doing what he is doing because he is no longer afraid of World War III from atomic bombs. Let me tell you, he is in World War III, pollution. The rivers when they cross the international boundaries don't go through customs, they are loaded with poisons and toxic metals, it goes all the way across Europe. The same thing is happening in this country. If we pollute our ground water, our children will have no tomorrow. We have to make choices, this is a hard choice, and it is one that we have got to make.

I urge you to think about it and do what you think is right, not necessarily for us, we won't see it, the reason being, it takes a long time for these poisons to work. It doesn't happen over night and when it does happen, it is too late.

When I came back home, I was reading my mail and I ran across an article and it really struck me -- I felt bad, very bad. The article went on to say that in Russia the life expectancy has shrunk from age 66 to age 60 since 1940 because of uncontrolled economic growth. For seven decades, they have been dumping poison in the rivers. In Russia, one out of three people develops cancer from pollution. In Russia, they have more doctors per capita than any other country in the world, yet the death rate among children is higher in Russia than in this country, pollution. If you don't think that is enough, Lake Baikal that holds 20 percent of the world's fresh water is also polluted, loaded with dioxin and heavy metals and we are going in the same direction. Some are worried about 1992, the common market in Europe, no fear, if they don't get together and solve their

problems dealing with pollution, they aren't going to last very long.

Now some of you are familiar with history, you may recall the saying that the Roman Empire went under from corruption from within -- not so. They went under from lead poisoning because they were drinking water out of lead aquaducts. We are all heading in the same direction unless we correct what we are doing. The time to act is not tomorrow, the time to act is now. I would urge you to vote for this legislation.

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

Representative TELOW: Mr. Speaker, I have a question I would like to direct through the Chair.

Does this also apply to inground fuel or heating oil tanks? I remember where I worked, we had an 8,000 gallon fuel oil tank to heat the building, does this also apply to them? I know our church has the same thing of an inground tank and the fuel oil.

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

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: The answer is yes.

At this point, Speaker Martin of Eagle Lake resumed the Chair and called the House to order.

The SPEAKER: The Record will show that the presiding officer is voting at this time even though he excused himself earlier today. Since the Senate Amendment would have covered the company that is involved and is no longer involved, I am no longer in conflict.

The SPEAKER: The pending question before the House is the motion of Representative Foss of Yarmouth that L.D. 1725 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 219

YEA - Carroll, J.; Foss, Foster, Greenlaw, Hanley, Higgins, Lebowitz, McPherson, Moholland, Parent, Seavey, Strout, B.; Strout, D.; Webster, M.; Wentworth, Whitcomb.

NAY - Adams, Aikman, Aliberti, Allen, Anderson, Anthony, Ault, Bailey, Begley, Bell, Boutilier, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Curran, Daggett, Dexter, DiPietro, Donald, Duffy, Erwin, P.; Farnsworth, Farnum, Farren, Garland, Gould, R. A.; Graham, Gurney, Gwadosky, Handy, Heeschen, Hepburn, Hichborn, Hickey, Hoglund, Holt, Hussey, Hutchins, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Libby, Lisnik, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Mayo, McHenry, McKeen, McSweeney, Melendy, Merrill, Michaud, Mills, Mitchell, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Pines, Pouliot, Priest, Rand, Reed, Richard, Richards, Rotondi, Ruhlin, Rydell, Simpson, Skoglund, Small, Smith, Stevens, A.; Stevens, P.; Stevenson, Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, The Speaker.

ABSENT - Dellert, Dore, Dutremble, L.; Hale, Hastings, Jackson, LaPointe, Larrivee, Marsh, Marston, McCormick, McGowan, Plourde, Ridley, Rolde, Sheltra, Sherburne.

Yes, 16; No, 118; Absent, 17; Paired, 0; Excused, 0.

16 having voted in the affirmative, 118 in the negative, with 17 being absent, the motion to indefinitely postpone did not prevail.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-633) as amended by House Amendment "A" (H-1071) thereto and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

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

CONSENT CALENDAR

Second Day

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

(S.P. 972) (L.D. 2438) Bill "An Act Concerning the Authority of the Public Utilities Commission to Order Competitive Bidding" (C. "A" S-631)

(S.P. 884) (L.D. 2253) Bill "An Act to Improve Oversight of the Financial Condition of Insurers" (C. "A" S-635)

(H.P. 1650) (L.D. 2283) Bill "An Act to Provide Uniformity and Fairness after Mortgage Foreclosure" (C. "A" H-1042)

(H.P. 1767) (L.D. 2435) Bill "An Act to Modify the Applicability of the Certificate of Need Program to Hospitals and to Exempt Certain Hospital Restructuring Activities from the Requirement of Approval by the Maine Health Care Finance Commission" (C. "A" H-1043)

(H.P. 1527) (L.D. 2112) Bill "An Act to Establish the Protection and Advocacy Agency for Persons with Disabilities" (EMERGENCY) (C. "A" H-1044)

(H.P. 1770) (L.D. 2440) Bill "An Act to Allow the Loan of Automobiles to Municipalities for Law Enforcement Purposes" (C. "A" H-1045)

(H.P. 1628) (L.D. 2255) Bill "An Act to Exempt Forestry Activities in Forested Wetlands from Regulation Under the Natural Resources Protection Laws" (C. "A" H-1048)

No objections having been noted at the end of the Second Legislative Day, 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.

(H.P. 1633) (L.D. 2260) Bill "An Act Requiring the Reinstatement of Health Insurance for Persons with Organic Brain Disease" (C. "A" H-1049)

On motion of Representative Tammaro of Baileyville, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-1049) was read by the Clerk.

Representative Tammaro of Baileyville offered House Amendment "A" (H-1084) to Committee Amendment "A" (H-1049) and moved its adoption.

House Amendment "A" (H-1084) to Committee Amendment "A" (H-1049) 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 and sent up for concurrence.

(H.P. 1788) (L.D. 2457) Bill "An Act Concerning State Education Mandate Waivers" (EMERGENCY) (C. "A" H-1052)

(H.P. 836) (L.D. 1168) Bill "An Act to Provide Adjustments in the Educational Funding Formula" (C. "B" H-1053)

(H.P. 1590) (L.D. 2202) Bill "An Act to Implement Certain Provisions of the Federal Family Support Act of 1988 and Improve Access to Services in the Additional Support for People in Retraining and Education Program" (EMERGENCY) (C. "A" H-1054)

(H.P. 1735) (L.D. 2394) Bill "An Act to Clarify the Process by Which the Board of Environmental Protection Regulates the Discharge of Toxic Substances to the State's Surface Waters" (C. "A" H-1055)

(H.P. 1691) (L.D. 2341) Bill "An Act to Enhance the Ability of the State to Respond to Oil Spills" (C. "A" H-1056)

(H.P. 1721) (L.D. 2377) Bill "An Act to Reduce the Use of Marijuana and to Make Related Amendments to the Drug Laws" (C. "A" H-1057)

(H.P. 1758) (L.D. 2423) Bill "An Act to Clarify the Laws on Manslaughter in the Workplace" (EMERGENCY) (C. "A" H-1058)

(H.P. 1497) (L.D. 2074) Bill "An Act Concerning Living Wills" (C. "A" H-1059)

(H.P. 1730) (L.D. 2389) Bill "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums" (C. "A" H-1060)

(H.P. 1672) (L.D. 2314) Bill "An Act to Increase the Penalty for Vehicular Manslaughter and to Remove the Habitual Drunk Driver Offender from the Highways" (C. "A" H-1061)

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

The Chair laid before the House the following matter: Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1069) on Bill "An Act to Correct Errors in the Solid Waste Laws" (H.P. 1705) (L.D. 2354) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-1069) and sent up for concurrence.

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

**CONSENT CALENDAR
Second Day**

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

(H.P. 1776) (L.D. 2444) Bill "An Act to Make Supplemental Allocations from the Highway Fund for

the Fiscal Years Ending June 30, 1990, and June 30, 1991" (EMERGENCY) (C. "A" H-1064)

(H.P. 1753) (L.D. 2416) Bill "An Act to Establish Fees for Nonferrous Metal Mining" (EMERGENCY) (C. "A" H-1065)

No objections having been noted at the end of the Second Legislative Day, the House Papers were 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.

**PASSED TO BE ENGROSSED
As Amended**

Bill "An Act Concerning the State Minimum Wage" (H.P. 1646) (L.D. 2279) (C. "A" H-1046)

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

On motion of Representative Boutilier of Lewiston, the House reconsidered its action whereby Bill "An Act to Amend the Maine Criminal Code with Regard to Drugs" (H.P. 1803) (L.D. 2474) was passed to be engrossed.

The same Representative offered House Amendment "A" (H-1086) and moved its adoption.

House Amendment "A" (H-1086) was read by the Clerk.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: My amendment, if the House accepts my motion, would be attached to the committee's omnibus drug bill. They worked many long hours and I believe came up with a good bill but they didn't go as far as I would have liked them to.

The area that I am trying to address with the amendment is the hypocrisy that I see in the issue of the state saying to consumers, we can condone the action of a particular individual when they are doing what we are giving them a professional license for when in fact they may have been convicted of possession of drugs or trafficking of drugs or even convicted twice of possession or twice of trafficking. What my amendment would do, it would say that in the middle of a person's license, meaning the time after they have been granted a license and prior to renewal which is when the professional licensing board would renew that application and review the person's background that, if the individual had a conviction for possession of illegal substances or trafficking of illegal substances, then notice from the court would go to that professional licensing board and that there would be two steps that would be followed by that professional license board.

I will read them as follows: In the case of possession, the individual convicted of possession of more than one ounce of marijuana, any amount of cocaine or any scheduled drug or imitation drug, must be sentenced to probation for one year and be fined \$100. In the case of the second possession, that same thing would occur and hopefully that licensing board would either revoke the license or set some standard above and beyond that minimum to try to deter that individual from continuing that conduct.

In the case of trafficking drugs, if the person is convicted of unlawful trafficking under Section 1103, they must be sentenced to one of the following, probation for one year and \$100 fine if it is the first conviction and, if it is the second conviction, revocation of the person's professional license and a \$500 fine.

The reason for these stringent actions, in my mind, is that we cannot rightly say to a consumer we are sanctioning this individual as a good quality, upstanding individual for the purpose of whatever you are buying from them when in fact probably unbeknownst to the consumer, because the license hasn't come up for renewal yet, this individual has been convicted of trafficking. If we truly believe that we are in a war against drugs, if we truly believe as I do that drugs are not only affecting the low income of this state or the low income of this nation, are not only in every portion of low income and subsidized housing and only downtown of a city, but in fact are rampant throughout society. They can fill every avenue and every street and every home regardless of the income of the individual who lives there, regardless of their professional status, regardless of their background, then we must set up barriers and disincentives to that type of individual to have the actions which we are not condoning and that is possession of illegal drugs and trafficking in illegal drugs.

To me, when you get to an individual who has been sanctioned by the state with a professional license on one hand and on the other hand telling them, we are going to convict you twice of trafficking -- if we can't say to that individual, you will not get our sanction for professional license -- to me, we are as a state being hypocrites and that is the reason I presented this amendment.

I would ask for a roll call Mr. Speaker and I hope you go along with that motion.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: This amendment is being offered to a unanimous committee report. The Committee on Judiciary had several bills before it this second regular session and we came to a unanimous agreement on several major aspects. This amendment, however, was not part of that unanimous agreement of which we had between Democrats and Republicans, between the administration and our people who petitioned the Judiciary Committee for an improvement in our laws regarding scheduled drugs.

I must oppose this amendment on the grounds that, even though it is a very popular cause to want to do more than what we are doing now, the status quo today even though that is popular to try to do more, we can sometimes throw the baby out with the bath water.

The commissioner of the department testified against this particular segment of the bill that was presented by the good Representative from Lewiston in the month of March and testified that there is one part for the professional boards to play and there is another part for the courts to play. If someone is convicted, they go before our court process, they are given due process and their rights are adjudicated. But if they then have to go also -- we also make the professional boards another court of law, we are really going overboard in this instance. We have, with the improvements that we have made, some effective deterrents to professionals using drugs but this is a broad sweep and it is much too broad. I cannot support it and I think it tells you something that, if I cannot support it and you know me and my reputation, that there is something wrong with it.

I don't believe, ladies and gentlemen of the House, that once a person has been found guilty and a court has imposed sentence that we then make it impossible for them to make a living afterwards. It isn't the responsibility of our professional board to make it impossible for that person who has a license whether it is a journeyman's license, oil burner or cosmetician or electrician or anyone else that is licensed by the department to make a living the rest of their lives. It is for them to be fined, maybe have a period of imprisonment, and then to seek rehabilitation. If that livelihood of that person depends on them going back to their former vocation, then that ought to be possible. So, I don't want us to make the Department of Business Regulation another court of law. I want them to be aware, I want them to be able to suspend the license which we are empowering them in our unanimous committee report, we are allowing them to take action but I think this goes beyond really what the department, the administration, and the committee thought was reasonable and effective in dealing with this particular area of drug abuse.

So, I would urge that this amendment be indefinitely postponed.

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

Representative MACBRIDE: Mr. Speaker, I move that this amendment be indefinitely postponed and I request a division.

This amendment which you have before you was part of a bill which Representative Boutilier brought to our committee. We considered this amendment, we considered his whole bill very, very strongly but we decided that this was exactly the wrong way to go at the present time.

We have a very good bill, a very straightforward bill, a bill that we are very proud of, one that we feel is going to help tremendously with our drug problem. I hope you will not support this amendment, it would muddy that bill.

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

Representative CONLEY: Mr. Speaker, Men and Women of the House: Obviously, you can see members from the committee from both parties rising to oppose this amendment and I join in that. We worked very, very hard on this bill and we came out with a unanimous report.

Essentially, three short reasons why we would reject the amendment is that Representative Boutilier is trying to put judges in a place where they have to do some sort of mandatory sentencing which this particular type we were opposed to jointly as a committee. We also felt that it would place a burden on the Department of Probation who would in fact have to mandate to come aboard with the Probation Department which is already overworked for a full period of a year.

Finally, the Professional Regulation Board sent their assistant Attorney General up and said there is not really a problem in this area. So, those are the three reasons why we were opposed to it.

I guess every committee works hard and tries to do a good job. If there has been one favorite word in my committee this particular session, things pop up over and over again, it has been the word and it is going to be painful to the members of the committee but the word is "nexus", and if you haven't gone to law school and you weren't on the committee you would think that is a brand of sneaker, but in fact it is not. What we had talked about in the committee is that we didn't think it would be proper

for a plumber to have his license summarily rejected or taken away by way of a bill that the Professional Regulation Board that overlooks whatever profession it may be should have an opportunity to act on that and that is why we rejected the thoughts which Representative Boutilier, who has a good motive in mind in expressing his amendment. For all those reasons, I would urge its rejection.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I want to address some of the comments of the good Representatives who have spoken before me. One, to me this is a consumer right-to-know issue. If a consumer is out there looking for a plumber, if we want to take that example, and that plumber has been convicted twice of trafficking out of their plumbing truck, what are we saying? Are we saying, fine, we sanction that they go around in their plumbing truck and do whatever, but we have already caught him twice for trafficking drugs out of that truck but the state is saying, as a plumber, they are a great person -- so sure, spend your money on them to do the plumbing, but don't buy drugs from him because we have already convicted him twice for that. That is just a ridiculous statement to me to have the state sanction one end of this person because we are giving him that license, we are telling the consumer that is going to pay money for their services that this person is an upstanding individual, they are in good standing with the community and the state and we are saying they have met the criteria for education and background and experience and what have you and they are great for this particular entity but we have blinders on to everything else the individual does. If that assumption is true, then if they were a murderer but they were a great plumber, we would still spend money on them for them to fix our pipes. That is the issue to me.

The second issue made was, we don't want to make the professional board a legal body. Folks, for all intensive purposes, they are not a legal body now and suddenly they are going to be. They can revoke individuals within their professional licenses now, they can do that now. They can set up caveats to reinstatement of licenses. There are cases that I found out myself where in fact an individual was having serious emotional problems, was involved in possession and involved in taking drugs and it was impairing their responsibility as an individual, let alone what it was doing to their profession. The Professional Licensing Board said, you have to clean up your act and we are going to suspend your license, we are going to put you on probation but you have the ability to come back if you go to counseling, if you go to drug rehab, we will consider that, we will consider you to come back.

That brings me to the third point that was made and I want to respond to that, and that is, we are taking away this person's livelihood for the rest of their life. Well, that is not true. The same ability for this person to get their license reinstated (in this instance) will be there regardless of whether this bill passes or not. Those same procedures that the Professional Licensing Boards have to deal with an individual who wants reinstatement after they have been given a suspension or probation are still going to be present. My bill and my amendment will not affect that whatsoever.

I agree with the members of the committee, they have passed out an excellent bill. I think they have done a lot of good positive things and they did take

some aspects from my bill and instituted it in their omnibus bill and I appreciate that. They just didn't deal with the primary issue I wanted to deal with in my original bill and that is that issue of hypocrisy where the state is saying at one end, this person is a great individual and at the other end, we have convicted him twice of trafficking.

To hear someone from the Judiciary Committee that I think is one of the better committees in dealing with the drug issue say, we don't want mandated sentencing seems to me a little bit difficult to understand when we have passed a number of those issues in this body and I was in favor of those as well. I think it is important for the state to take a hard stand when it comes to drug abuse, trafficking or possession. I do not agree that there is no problem. There is a problem out there that we don't see because we haven't had the noticing provisions in the middle of someone's license. We don't have consumers aware of an individual who has been convicted twice of possession and twice for trafficking giving them the choice, do they still want to go to that individual regardless of what their particular service is, plumbing or anything, social worker, doctor, what have you? I really think it is difficult for us to stand here and vote today on this bill and say that we will sanction this individual and we will tell the consumers they are fine on this end but we have sent them to court, they have gone through that process and they lost twice. For all those reasons, I would hope you would stick with the motion on the roll call and pass this amendment.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to suggest to the members of this House that in a funny sort of way passing this proposed amendment might in fact weaken our drug policy because it is the experience of many in the criminal justice system that a mandatory sentence of this sort has the effect of having judges backing off from a second conviction and sometimes even the first conviction for fear that it will put the person's ability to maintain a job in jeopardy. If you put the ability to maintain a job in jeopardy, you could in fact push the person farther into the criminal world rather than the world of honest work.

So, in a funny sort of way, if this were to become law, it could well result in more plea bargained arrangements to something other than the offense that really is the offense that was committed and thus would actually weaken our drug laws.

So, I would agree with the other members of the committee that this amendment should be indefinitely postponed.

Representative Boutilier of Lewiston 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 MacBride of Presque Isle that House Amendment "A" (H-1086) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 220

YEA - Adams, Aikman, Aliberti, Allen, Anderson, Anthony, Ault, Bailey, Begley, Bell, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Curran, Daggett, Dexter, DiPietro, Donald, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hale, Handy, Hanley, Hastings, Heeschen, Hepburn, Hichborn, Hickey, Higgins, Hوجلund, Holt, Hussey, Hutchins, Jacques, Joseph, Ketover, Kilkelly, Lawrence, Lebowitz, Libby, Lisnik, Look, Lord, Luther, MacBride, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McHenry, McSweeney, Melendy, Merrill, Michaud, Mitchell, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pederson, Pendleton, Pineau, Pines, Plourde, Pouliot, Rand, Reed, Richards, Rotondi, Ruhlman, Rydell, Seavey, Sheltra, Simpson, Skoglund, Small, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

NAY - Boutilier, Crowley, Gurney, Mills, Moholland, Priest, Smith, Tracy.

ABSENT - Dellert, Dore, Jackson, Jalbert, LaPointe, Larrivee, Macomber, Marston, McCormick, McGowan, McKeen, McPherson, Richard, Ridley, Rolde, Sherburne, The Speaker.

Yes, 126; No, 8; Absent, 17; Paired, 0; Excused, 0.

126 having voted in the affirmative, 8 in the negative with 17 being absent, the motion did prevail.

Subsequently, the Bill was passed to be engrossed and sent up for concurrence.

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

(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

Divided Report

Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1082) on Bill "An Act to Reduce the Use of Toxic Substances in the Workplace and Minimize the Generation of Hazardous Waste" (H.P. 1583) (L.D. 2192)

Signed:

Senators:	ERWIN of Oxford KANY of Kennebec
Representatives:	HOGLUND of Portland COLES of Harpswell JACQUES of Waterville SIMPSON of Casco MICHAUD of East Millinocket MITCHELL of Freeport

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

Signed:

Senator:	LUDWIG of Aroostook
Representatives:	LORD of Waterboro ANDERSON of Woodland

GOULD of Greenville
DEXTER of Kingfield

Reports were read.

Representative Michaud of East Millinocket moved that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: Here is a bill with a vast difference. 2192, which is the bill we are speaking on takes into consideration, not only the reduction of hazardous waste that is moving out of the state but also takes into consideration air emissions. When it was started, it was hazardous waste moving out of the state, then in committee they added air emissions and there was some discussion of even including emissions into the waters of the rivers. However, what was done, it more or less, was based on the removal of hazardous waste.

The main difference of the bills is the fact that, under 2192, each company must, and I say must, before they do any reduction of the toxic wastes, make a plan. This could be pretty expensive. It takes a lot of time and when you get done with the plan, you put it up on the shelf. It might stay there and gather dirt or if DEP came in and asked you a few questions, you will take the plan off the shelf and talk to them.

The other bill, 2316, does not have a plan if you will reduce your hazardous material and this is hazardous material that is moving out of the state. Let me emphasize, this is hazardous material moving out of the state. Why did this come about? Well, most of our hazardous material goes to four states, Massachusetts, New York, New Jersey and Alabama, we don't have any hazardous waste facilities in the State of Maine. Those people are no different than the people in the State of Maine when they say, "Not in my backyard." So they have gone to the facilities down there and said, "You've got to do something about reducing the hazardous waste that is brought into these facilities from other states." The Governor's got together over a number of states and they came up with a plan or came to an agreement that each state would try to remove some of the hazardous waste in the stream that was going out-of-state. This was really the fundamental reason why the bill was introduced. It was the primary reason.

At the hearing, business after business came into the hearing and was against 2192. One of the main reasons was because of the fact that bill took it off the top, took off the chemicals that we were using in the production of your product. A lot of them said that if we have to do this, then the only way we can do it is to cut down production. When you cut production, you lay off people. L.D. 2316 takes it off the bottom. It says, "You will remove the hazardous waste and try to find a way of doing it." It might be that you will take some of the material off the top but most of you will find a way of recycling or doing something with the hazardous material. That is possibly the biggest difference.

There is going to be a fee on both of these bills, there is going to be an advisory committee on both of these bills and I think that we would be accomplishing a lot more if we left the air emission out of this bill. The air emissions are being taken care of through the Air Bureau, they have rules and regulations, you have a permit as to how much you can emit into the air so I think we would be better off and proving our position in removing hazardous waste out of the state if we go with the 2316 and I hope you will defeat 2192 and go with 2316.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: This evening this body has the opportunity to further protect the health and safety of Maine's working people to better safeguard the public health and to command the direction of our state's environmental policies into the next Century.

After hours of testimony and deliberation, the Majority Report of the Energy and Natural Resources Committee recommended that L.D. 2192 be passed. I support the majority decision.

L.D. 2192 will help reduce the use of toxics in Maine's workplaces, it will lessen the amount of toxic materials released into our air and it will reduce the amount of hazardous waste generated by industry. It will promote a comprehensive approach to dealing with toxic and hazardous substances.

As a state goal, this bill establishes a 10 percent reduction of the use of toxic substances by all state businesses by 1993, a 20 percent reduction by 1995 and 30 percent reduction by 1997. These goals will be statewide goals and will not be mandated to companies on an individual basis because some companies have the capacity to greatly reduce the use of toxic substances and other companies do not. L.D. 2192 accepts this reality.

This bill also deals with toxics which are not regulated but will still escape into our air. This bill creates goals for reducing the amount of toxics released into the environment. A 10 percent reduction is required by 1993, a 20 percent reduction by 1995 and a 30 percent reduction by 1997, these goals apply to every company in the state who must now report these emissions to the DEP.

As a Representative from District 72, which includes Mexico and part of Rumford, I am acutely aware of the effects on air quality which unregulated emissions have. L.D. 2192 also requires that all large quantity generators of hazardous waste reduce the amounts of such waste which they now create. The goals are the same. Companies which must meet the goals outlined in this bill are required to keep the Department of Environmental Protection informed of their progress. The Commissioner of the DEP can, if he feels that a company is not progressing as it should, ask to see the summary of the plan which they hope to meet these goals. L.D. 2192 does not leave Maine businesses to fend for themselves. The bill places within the Office of the Commissioner of the DEP the responsibilities of providing the technical assistance needed.

L.D. 2192 uses existing state reporting requirements and the cost to carry out these requirements will be provided by a registration fee placed on generators of hazardous waste, toxic users and toxic releases. The fees generated will fund the monies necessary to operate the program.

This bill will protect the health of workers and the public as well as protecting the environment. I urge your yes vote on 2192.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I have several small businesses in my area, many of them use what under this particular bill, 2192 as amended, would be deemed to be toxic. The definition is an extremely broad definition. It is in fact so broad that it brings forth practically every metal used by tool shops in my area, that would be true of any tool shop.

The competing bill, as I understand it, has language that at least modifies the harm that this bill would do to such shops. The expense of building

plans, the difficulty of dealing with toxic materials is difficult for these tool shops. Already they carefully have to handle these for simple safety reasons. However, what is done here is put these shops into a category where some of them are going to be without a business and they are very well-run, clean operations.

We live in a fast moving world and I would tell you that we are fast choking ourselves with regulations. I would urge you to defeat L.D. 2192 so that the other bill may be taken up more favorably.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: I found the remarks of my good friend and seatmate on the Energy Committee, the Representative from Waterboro, interesting because it seems to me that all misinformation is always circulated on what 2192 is about and what the differences are between 2192 and the bill which my friend from Waterboro would prefer.

This bill will not, I repeat, will not put anyone out of business. It requires people to plan for toxic use reduction, it does not require them to reduce their use and has a specific sentence in there saying they are not required to meet the state goals and they are not required to make any reductions which will impair the production or quality of whatever goods and services they offer.

Both bills have very similar provisions regarding hazardous waste reduction. 2192 offers more flexibility to the companies involved than the other bills does. The only real difference between the two bills is when it comes to the question of toxic releases. Under federal law, all companies who use chemicals are called under federal law, Section 302 and subtitled "extremely hazardous substances." All those companies must make a report each year to the federal government on how much of these extremely hazardous substances they use in their processes. Those companies are the ones which we are asking to plan to reduce the use of those chemicals if it is possible to do so without impairing the production or the quality of their goods and services. Under the same federal law, all companies using the release into the environment, the air or the water or onto the land, any of 372 toxic substances, must report to the federal government how much they release. Only six of that 372 are regulated under Maine's Normal Air Emission licenses. Three hundred and sixty-six of those substances are totally unregulated at the moment.

L.D. 2192 would say that, as a part of your normal reporting, every year under federal law, the first thing you would do is say how you plan to reduce the release of those chemicals into the environment and into the workplace. Each year, you would make a statement as to how well you are progressing toward meeting those goals. You are required to meet the goals, you would be if the law passes, the goals regarding release into the environment. That is only reasonable, these are very toxic materials. It is only reasonable if you are releasing them into the environment, you should engage in a program to reduce those releases gradually and gradual is the word. The goals call for a 10 percent reduction by 1993, a 20 percent reduction by 1995 and a 30 percent reduction by 1997, the same goals for hazardous waste reduction.

Anyone engaged in hazardous waste reduction seriously is going to engage in toxic use reduction planning and toxic release reduction planning. They cannot effectively reduce hazardous waste if they do not.

Moreover, the problem with the other bill is that it takes a very narrow-minded approach. It says simply, we will do what has to be done to meet the federal requirements, we will ignore what ought to be done to meet the good of the people of the State of Maine. 2192 says that federal requirements are well and fine but we have a greater obligation to the people of Maine and that is to also try to reduce their exposure to extremely hazardous substances and 366 toxic substances. That is the real difference between the two bills, that 2192 goes after reducing the air, water and land and 366 substances that are not regulated right now. The other bill does nothing of the kind whatsoever.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: I will be very brief. It does set up three separate plans, more plans to gather dust. It sets up a new program in the department in times of fiscal restraint and when the vote is taken, I request the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: I would call your attention to Page 4 of L.D. 2192. If you will look at the amendment H-1082, Item 18, it says "toxic use reduction." Toxic use reduction means front-end substitution. Now front-end substitution to me is up top, not down on the bottom. Front-end substitution, product reformulated or in-plant changes in production processes. You can bet your sweet bippy, if you don't have a thing in this one this year, you are going to be darn sure you are going to have some in next year that is going to make you take it off the top. It was in the original bill and they pushed on that and they pushed on that.

2316 takes it off the bottom where it belongs. We don't want to cut production in the state, we can't afford to cut production in the state on these chemical plants. Skyro from Sanford, I talked with him Monday and he had talked with one of the lobbyists last weekend and he said, "I still cannot go with 2192. Toxic release is going to affect me and my whole product is based on the use of chemicals." To me, this is a man that is in business and it is going to hurt him. If he has to cut the use of the chemicals, he is going to have to lay off people.

Pioneer in Lewiston/Auburn, when the original bill came in, he said the same thing. He said, "You know, we mothballed a plant out in Wisconsin and if something like this goes through, you may see us mothball this plant in Auburn and we will go back to Wisconsin." I think we have to be careful, let's take the waste off where it belongs and let's leave the front end of production alone.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I hope you will go along with the Majority "Ought to Pass" Report. This is a good bill and Representative Lord is correct, business after business came and testified against the original bill, 2192. If the original bill was before us today, I would not have voted for the it because it was a poorly drafted bill, a bill that did not make sense.

I feel that this bill does make sense, it is a good bill, I think it is workable and the scenario that Representative Lord just gave you, the committee took that into consideration when we dealt with it,

and you will find on Page 6 dealing with those sections that if it does mean that it is going to affect your production or the quality of the product, they will be exempt. Also if you look on Page 9, 2E, (c) as far as the releases, you can get an exemption so I think the committee did take into consideration the concerns of the business community.

Before we finally worked on this bill, we heard people from the industry say that they know what is in their plant but there is an article in the Bangor Daily News where a death of a mill worker occurred and it was the mill itself that did not know what they had in their plant. They did not know so they were going to investigate the chemicals that were in their plant because of the construction that was going on.

This is a good bill and it is a reasonable approach and I hope that you will go along with the Majority "Ought to Pass" Report.

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

Representative RAND: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support the Majority "Ought to Pass" Report, L.D. 2192. All of the merits of the bill have been eloquently presented to you by the Representative from Mexico. I would just like to add that L.D. 2192 does reduce toxic air and water emissions, reduces the generation of all hazardous waste, provides Maine businesses with flexibility in achieving reduction goals and it does not require industries to reduce production to meet the goals and will not cost jobs.

In contrary to what the good Representative from Fryeburg, Representative Hastings, has stated, in the area of pollution control, we are not fast choking on government controls, we are fast choking ourselves in our environment with toxic chemicals and waste.

Please vote to pass 2192.

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 Woodland, Representative Anderson.

Representative ANDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Representative Lord that 2192 works on the front-end, works on the supply of chemicals where 2316 works on the reduction on the other end. If you work on the supply, it is very hard to reduce. They have to have so many chemicals to do the job. When you work on the other end, the reduction end, that is the place it should be.

I hope that you will defeat this bill and support 2316.

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

ROLL CALL NO. 221

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, Erwin, P.; Farnsworth, Foster, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Luther,

Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, 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, Pouliot, Priest, Rand, Rotondi, Ruhlin, Rydell, Simpson, Skoglund, Smith, Stevens, P.; Swazey, Townsend, Tracy, Tupper, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, DiPietro, Donald, Farnum, Farren, Foss, Garland, Gould, R. A.; Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hussey, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, McPherson, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Plourde, Reed, Richards, Ridley, Seavey, Sheltra, Small, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tammaro, Tardy, Telow, Webster, M.; Wentworth, Whitcomb.

ABSENT - Dore, Dutremble, L.; Jackson, LaPointe, Larrivee, Marston, McCormick, McGowan, McKeen, Richard, Rolde, Sherburne.

Yes, 84; No, 55; Absent, 12; Paired, 0; Excused, 0.

84 having voted in the affirmative and 55 in the negative with 12 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-1082) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1082) and sent up for concurrence.

Divided Report

Majority Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Establish a Hazardous Waste Minimization Program" (H.P. 1674) (L.D. 2316)

Signed:

Senators: ERWIN of Oxford
KANY of Kennebec
Representatives: HOGLUND of Portland
COLES of Harpswell
JACQUES of Waterville
SIMPSON of Casco
MICHAUD of East Millinocket
MITCHELL of Freeport

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1083) on same Bill.

Signed:

Senator: LUDWIG of Aroostook
Representatives: LORD of Waterboro
ANDERSON of Woodland
GOULD of Greenville
DEXTER of Kingfield

Reports were read.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I move the Majority "Ought Not to Pass" Report.

This bill we have before us we no longer need simply because the body enacted the other bill and this is a competing measure so this is no longer needed.

Subsequently, on motion of Representative Michaud of East Millinocket, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the following matter: Eight Members of the Committee on Energy and Natural Resources on Bill "An Act to Regain Full Use of Maine Waters through the Establishment of Color Standards" (H.P. 1418) (L.D. 1970) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-1067); Three Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-1068); Two Members of the same Committee on same Bill report in Report "C" that the same "Ought Not to Pass" which was tabled earlier in the day and later today assigned pending acceptance of any report.

Representative Michaud of East Millinocket moved that the House accept Report "A", "Ought to Pass" as amended by Committee Amendment "A" (H-1067).

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: It seems as though today is the day of the Energy and Natural Resources Committee. What a day!

It isn't with a great deal of pleasure that I get up on this bill and compete with the other members of the committee but sometimes you have to go with what you believe is right. If you will remember, last year a little later than this, I got up and asked and told you people that we needed facts and figures on this color, odor and foam bill. The bill was passed, vetoed by the Governor and the veto was sustained.

We had a hearing a while back, it lasted ten and a half hours, I was there every minute of that hearing except for a short visit down the hall. I listened and I listened to facts and I listened to figures. I have a package here about four or five inches thick of both on them. I am going to give you what my perception is of what I heard.

It was generally agreed by a lot of people that testified that color is not harmful to the health of the people of this state. There was disagreement as to the effect it had on aquatic life. Experts from the DEP said that the color did hurt it. Experts from the paper companies said that it hurt some but not as much as DEP claimed. One of the questions I asked one of the experts was, "If we blew every dam on the Androscoggin River, would it be any cleaner?" He said, "Yes, it would be a lot cleaner because the river would be flexing itself a lot quicker than it does but you have dams on there and you are going to have dams on there." I think with this still water that you have behind these dams, it hurts and adds to the color of that river.

We asked about foams and odor and they said, yes if you reduce the color, you would reduce some of the foam -- some. I asked the question, "How much, a lot, a little, in between?" I was told, "Some." Some -- quite variable. We asked the same question about film -- reduced some, the same answer. A whole lot, a little? Didn't get a clear answer so it is some and this is figurative too.

I am convinced more now than I was a year ago that this bill will not accomplish what Representative Nutting and Representative Pouliot want. They want a clean river, white river or a blue river -- they are not going to get it with either one of these that are projected here. It is too bad because I was hoping that we might come up with a compromise. We are fifty pounds difference, fifty pounds of color and I think you will find when you get done with it, the 225 or 275, people aren't going to be able to tell the difference in the color of the river then so we are spending a lot of money. How much money? Well, you have a sheet of paper and now

one side it tells you what 225 is and on the opposite page it is going to tell you what the 275 is going to cost. If you look at the 225, it is going to cost \$202,100,000. If you look at the 275, it is going to cost \$115,400,000.

There was some talk about possibly using 300 as a color unit and that would only cost \$47,100,000 so it goes to show you the difference by reducing it from 300 to 275 which is considerable. It's a lot of money, folks. Some people will say, you are pro-business, I am pro-business, I was a farmer, a farmer is a businessman, but I am also pro-people. I want people in this state to have jobs. I want these kids to come out of colleges and be able to have jobs with good pay. My business partner this year was Leigh Bingham, who was raised down on the Androscoggin River and his Dad, Leroy Bingham was the Soil and Conservation District Supervisor down there for many, many years, I have known him for a long time. Leigh Bingham graduated from the University of Maine, worked up here, went down to Pennsylvania in the paper mills, he went from there out to Oregon, on to Canada and now he is back and managing the mill at Millinocket. When Leigh was down here the other day I asked him, "Leigh, will this do the job, will this reduce the color, will it do the job?" He said, "Willis, absolutely not."

Just the other day, we had lunch over to the Senator Motel with a bunch of people on this landshare and I sat next to a fellow who works at International Paper, he is an environmentalist specialist. He was in the service as an environmentalist specialist going around finding places to put bases where they would have water. I asked him, "Will this do the job?" He said, "Willis, as a water quality man, I could take the ingredients out of the water but to take the color out of the water was the hardest thing you can possibly do." Why in the devil should we spend all this money for aesthetic reasons?

Today, we just passed a bill on 713, An Act to Clarify the Process by Which the Board of Environmental Protection Regulates the Discharge of Toxic Substance in the State's Surface Waters" and I voted for this. It was going to reduce something in the water that is needed, dioxin. Don't forget, before you get rid of this bill and the cost of this bill, this other bill is going to kick in. If they come up with rules and regulations there is going to be a lot of other bucks spent. This is good, this is doing something. I think we have come up with something reasonable the paper companies have said they can live with, it is going to reduce some of the particulates in the water, it isn't going to do the job that they want now and it never will do the job that they want so what is the sense of spending all this money?

I would ask you to vote this 225 pound bill down and go with the 275.

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

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: Three years ago, the Department of Environmental Protection began a process of public river hearings on the rivers of Maine to see whether or not those rivers met the classifications that they were supposed to meet. I know that you are all familiar with the number of people that turned out and demanded cleaner rivers, rivers that they could use and not just look at.

The Majority Report before you today is a reflection of the original DEP drafted legislation and the bill that was vetoed last year, the Majority Report that is before you today, is a reflection of

the bill that I put in this year and the bill that Representative Stevens and others cosponsored for the Governor this year.

The people at the Water Bureau, at the Department of Environmental Protection, have been involved in this process right from the beginning. I just want to briefly say for everybody that I think the professionals that work at the Water Bureau in DEP are not biased environmentalists or biased paper mill managers, they are paid to do the research and to call the shots as they see them.

The Majority Report before you today is a reflection of that Bureau's recommendations. Now this issue has had a long history and I want to quickly review for you some of the inconsistencies of the paper mills opposition to this Majority Report.

The paper mills of Maine, for a year and a half now, have stated that no other states and no other mills had to come under similar regulations. The more, we the sponsors of these bills, the Natural Resources Council and the Maine Audubon Society researched this issue and we found more and more states that, yes indeed, do have odor, foam and color regulations in statute. Some states are stricter than what we are asking our mills in Maine to do tonight. The DEP staff traveled over 5,000 miles studying paper mills that had been made to reduce their odor, foam and color discharges. This is not based on theory, ladies and gentlemen, it is based on actual cases of what other mills have been made to do. The mills have also said that color, in no way, is related to odor and foam.

Georgia-Pacific consultants and their environmental manager last week admitted to the committee that, as they have reduced the color in the last two years, (and they have reduce it somewhat) have noticed a reduction in foam, finally after a year and a half. The DEP also has gotten bulletins copies from the National Paper Industry Office stating that because of the glue and lignins in wood that it should be and I quote "no surprise to the paper companies, that as you reduce color, you also reduce odor and foam." Next, they have threatened that jobs will be lost. There has not been a job lost at a paper mill in the United States due an environmental law. Environmental laws make mills more efficient and recapture more chemicals rather than just simply and quickly discharge them off into the rivers. That means they have to purchase less chemicals on the front-end.

Next they are saying, this is just an aesthetic issue, just a color issue. I am quoting now from a DEP memo that you have received, "As you lower color units, as well as lowering the odor and the foam on the rivers, very importantly, as you lower color, you lower the BOD, the Biological Oxygen Demand that is placed into that river. In effect, there is more oxygen now available for the fish and the plant life to use in the river.

Next, there has been a great disagreement over cost. I want you all to realize that the DEP and the independent consultants that were hired by the DEP this past summer and the Governor's Office all do not agree with the paper mills own cost estimates on this issue.

Lastly, I have mentioned some other states, Vermont, Montana, Alaska, Pennsylvania that have odor, foam and color regulations but I want to talk in closing a little bit about a paper mill that is very close to us in Maine. In fact, it directly affects the Androscoggin River and that is the James River Mill in Berlin, New Hampshire that discharges into, yes, the Androscoggin River, just before it flows into the State of Maine. Remember, the

Majority Report before us tonight asks that the paper mills by 1995 reduce their color to a 225 unit level. James River in Berlin, New Hampshire, a few years ago, according to the Commissioner of DEP, Commissioner Marriott, was off the scale pushing 800 pounds of color discharge into the Androscoggin River. Ladies and gentlemen of the House, what are they today? Today, they are at 208. Our mills are trying to make the point that they cannot get to 225 by 1995 and that mill in New Hampshire has come down from almost 800 to 208 today. Now people in other states are now enjoying cleaner water, clearer water, water with a higher level of oxygen in it down river from their paper mills and jobs have not been lost. I ask you, if people in other states can enjoy that, then why can't Maine's people have that same right? I feel they can, that is why I am supporting the Majority compromise bill here tonight.

I urge you to give people in Maine that same right and privilege.

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

Representative STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: I think the two previous speakers have done an excellent job of explaining this and about all I can add to it is that I am going to be voting for Committee Amendment "A" and I would appreciate all the support we can receive.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: My point in getting up on this is my history with paper mills and what they say and what they really mean. I mean to address the job issue.

Two years ago in our town, I supported a municipal ordinance for water, air and solid waste. International Paper threatened to pull out of town. The mill I work at, and I work at James River, the manager told me in nine weeks, the new paper machine -- you have a sheet in front of you of \$22 million -- he said in nine weeks, it will be down south. Well, ladies and gentlemen of the House, IP hasn't gone, James River isn't out, instead James River changed over a tank and some valves so now when there is an affluent pipeline leak, instead of immediately discharging into the river like they used to, it is now stored into that tank until the lines are fixed and then it goes for treatment. James River has also put almost a million dollars into its boiler discharges on the air emission side. So what these companies say and do, I know there is a balance there, but I ask you to seriously consider what the mills are saying and what they will actually do. Will they leave a good work force as long as these mills are profitable? Will they leave the state as long as there is timber to be had? The answer is no. When they leave this state is when there will be no more trees, when they simply can't make a profit. It is pretty hard in one side of your mouth to say we can afford a \$3.7 billion buy-out but the people in Maine aren't worth \$40 to \$50 million on their rivers.

I think the people of Maine deserve it.

The SPEAKER: The Chair recognizes the Representative from Woodland, Representative Anderson.

Representative ANDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I will be glad when tonight is over and we are done with color, odor and foam. We had it all last winter, we had it again this winter. We've got piles of paper, we have had experts flown in, we have experts almost kicked out, we've had lawsuits threatened -- there is very little connection with color and the reduction of it and the perception that is wanted to come out of this bill.

Color reduction between the two amounts of money, which is from 275 to 225, probably 50 percent of the people in this room would not be able to see that.

I have a little stream in my backyard that runs into my pond and comes out over -- I bet I could take a bottle of that water, bring it here and compare it with some of the discharge we have and it is as dark as the discharge, I want you to know that. I think that if we go through the Majority Report on this bill, we are breaking the camel's back. I think we have gone far enough with this, the cost is ridiculous.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I oppose the report which we have before us at this time. I hope that you will too so we can go on and look and accept Committee Report "B." I think it is a much more reasonable proposal for what we have before us and in order to get the job done that needs to be tended to or cared for.

This bill has very serious consequences to my district and to the town. The benefit that it brings is marginal at best and it has a questionable value as it stands right now.

Committee Report "B" appears to offer a more acceptable solution in that it calls for a more modest approach and it eases the time schedule for implementation. "B" takes into account the environmental concerns and addresses these concerns with a minimum of impact against our economic well being, it provides a logical approach.

It creates, as it stands under Report "A", no jobs beyond that concern, with the capital investment that is initially upfront. It also creates no jobs for the maintenance, so I have been told, and the expenditures on an annual basis in my town against my mill is approximately \$600,000 per year for the equipment that is involved. It brings no returns on investment, it brings no profit as a result. The cost to the mill in Old Town is approximately \$4 million this time. This represents the equivalence of two years of property taxes, very nearly the full amount of two years of property taxes. We talk about reducing the property taxes on one side but here we have made an expenditure or are calling for an expenditure against this mill, which is equal to two years. When these mills start to compete for machines, and I realize jobs is the important aspect of this measure, and we say there will be no jobs lost, but there will no jobs gained. Old Town has been in a bidding process several times now and has been outbid by mills in other sections of the country for various reasons, which mitigated against the arrival of a new machine in our town. The new machine would bring jobs with it. That is of interest to us in that the mill pays some of the better jobs in our town. This is what we are out to enhance, this is what we are looking for. I agree with Representative Pineau when he said, when the resource is gone, the mills will be gone also. We do have an environmental concern for the air, water and our resource and we must protect all three of them.

I urge you to join me tonight in rejecting Committee Report "A" so we can accept Committee Report "B."

The SPEAKER: The Chair recognizes the Representative from Baileyville, Representative Tamaro.

Representative TAMMARO: Mr. Speaker, Ladies and Gentlemen of the House: The Majority Report, in my opinion, is not a compromise. It certainly wouldn't be a compromise to Georgia-Pacific.

They spoke about the original bill last year, I didn't like the bill last year nor do I like it this year.

The Minority Report signed by Representatives Gould, Lord and Anderson is a compromise that will cost Georgia-Pacific \$8 million. This is too much but if there must be a color bill, this is the least of two evils.

This should not be a partisan issue. Democrats have always claimed to be for the working man and I believe that. If GP is forced to spend \$50 million on color removal in the St. Croix River, it will just discourage capital expenditures that will protect good paying jobs and create new ones at Woodland, Millinocket and East Millinocket now. This is hurting Maine workers and their families, it is not helping them one iota.

You just said awhile ago that GP has lowered their color standards and I know they are working on it every day and it is true, I know they got fined \$650,000 for what they have done over the last four or five years but nevertheless, they are working. The salmon are on the the river, the salmon are spawning, they are going to build fishways -- what I am trying to say is, if our river is getting cleaner and the fish are living in that river, why bother a company that is trying to do what is right by the river? If the Androscoggin and Kennebec Rivers are dirty, do what we did 20 years ago -- we got together with a company, the Canadians of course being an international water, we got together with them and told them that the water would have to be cleaned up. It wasn't cleaned up in a day or two or three, but over the years, they cleaned it up, purifiers, water treatment plants and everything else they could do to get this water cleaned up and get the salmon back in the river. I know that to be a fact, I remember it very well. I wasn't too much of a part of it not being a fisherman but nevertheless I watched it because businesses on both sides of the river were losing their business and something had to be done and the Georgia-Pacific Corporation did it.

Why I am here talking about this today is, I am thinking mainly of my friends, the people, the present employees of the Georgia-Pacific Corporation, people who have pretty good paying jobs. I am also thinking of the people who get out of high school and college that are looking for jobs, they want to go into the mill and if we can keep those men and women in the area, give them jobs at Georgia-Pacific Corporation, that makes me and everybody else in the area happy. I am not only speaking for my little town of Woodland, I speak for the whole St. Croix Valley. Yes, even into Canada. I am not worried too much about Canada, I can't say too much about Canada because I married a Canadian but nevertheless, jobs is my main concern. If we put this kind of monies that the companies have to pay to put back into the river, I am sure there is going to be an expansion program because they are talking about another kraft mill down there and if they are going to look at \$50 or \$55 million in the face, I don't believe we are going to see that expansion program. So my friends, the best I can do is vote for the Minority Report.

In closing, I am thinking of the jobs that will be created in my hometown, in my area, the whole eastern Washington County, that is why I am up here speaking against the Majority Report. I am going to go with the Minority "Ought to Pass" Report. I hope that you will give that some thought. After looking at the Majority Report and the people that are on that report, I feel like the fighter that has been fighting for nine hard rounds and he is going into the last round and the manager said to him, you go

out there and finish this last round because they haven't laid a glove on you. The fighter says to his manager, you had better watch the referee because somebody is clobbering me and that is the way I feel today on this bill.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: This bill is very important to me in some form of bill that comes out and deals with the color on the rivers in the State of Maine. I live on the Penobscot River, I moved from Clifton to Hampden in 1974 and moved onto a piece of property on the river that nobody would even touch because the river stank. It had foam, it had all kind of debris in it. Over that period of time to 1979, there was a noticeable difference. There was still foam on the river, the odor went down, sometimes on a low forecast day, you got the wind from Bradford and Old Town of sulphur dioxide but in 1979 to 1983, I was absent from the state attending school. I can tell you that in 1979 the boat traffic and the leisure craft on that river started to increase. There hadn't been that for many, many years.

In 1983, when we came back to the river to the present, you would not believe the amount of boat traffic and leisure activity on that river from water skiing to all types of activities, striped bass in the river, duck hunting, all types of things.

As a matter of habit, when I first moved on the river, I used to take a walk down to the river every morning around six or seven before I went to school in Orono. I became familiar with the ecology of the river and I watched it from spring until fall. I watched the eagles come down around December, I watched the mergansers come up the river in the winter and harbor into the cove that we live on. I watched the fishing activity increase over a period of time.

You will note from the data that we have here, you will see that James River does pour a lot of color into the river, probably more than any other mill. The lucky part that we have is that we have a large river, we have a big river and it can take that amount of color and dilute it and that is why under this Majority Report, it will only impact James River by \$4 million. That \$4 million will reduce the color unit, the actual color unit in that river, one unit. Why don't we just ask James River to give us the \$4 million so we can put it into retiring bonds, education or social services, that would perhaps be more responsible than the Majority Report.

I do think that the Minority Report is more reasonable although I do question both reports. I intend to vote for the Minority Report if I have that opportunity.

One of the questions I asked in dealing with these river bills is, in looking at all these facts and figures, you are throwing out this and you are throwing out that, we have a disparity between what DEP says the units are and what the paper companies say the units are and what the paper companies say it is going to cost and what DEP says it is going to cost -- that is a big difference. Boise Cascade -- over the next three to five years under the DEP projection \$15 million, under the cost that the paper companies put forth, \$41.7 million. How does that make reason when we had reasonable people that came and provided facts and figures?

The problem is, number one, nobody ever did a cost benefit analysis on how this is going to impact the paper mills. Nobody took into account the fact that the Penobscot River, the Androscoggin River and every other river in this state, are different. They

are biologically different, they have different types of fish, the types of tributaries that feed into those rivers and the outwash and the color that contributes from those tributaries are all different. The mills that throw less color into a smaller river on top of the fact that you have a lot of natural color, you have a higher color content. That will drastically affect probably some form of life, the fact of sunlight providing biological activity.

I think Representative Pineau is right in the fact that we are not going to lose jobs but I think Representative Tamaro was correct in the fact that we are not going to create jobs either because that \$4 million that James River has to put into that mill could be creating more jobs or it could be creating other useful purposes.

Traditionally, a cost benefit analysis is done like this -- and this came out of a lead case or the traditional case in law dealing with the cement plants. Cement plants within an area where eight of them were present were strewing all kinds of residue and dust in the air, pollutants, creating health hazards -- what level of pollution do you take out of the air in the cost benefit analysis? What is feasible? They found that 50 percent reduction of that waste into the air was feasible. To take out another two percent of that waste in the air would have cost ten times as much as it cost to take care of that 50 percent. That is why a cost benefit analysis is essential when you are talking about reducing any kind of a pollutant and when you are talking about the survival of a mill and when you are talking about reinvestment, when you talk about capitalizing some of their investments, when you talk about jobs, creating jobs, when you talk about how that relates to that community.

Look at James River for a second, let's look at Penobscot, 71 percent of the natural color in the Penobscot comes from tributaries, 2 percent comes from Great Northern, 4 percent comes from the Lincoln mill, 9 percent comes from James River, 14 percent comes from the headwaters. There are no mills above that headwater, where does that color come from? That color comes from a biological source. So in essence, what we are asking Lincoln and James River, which I will focus on, we are asking them to impact on that 9 percent they are putting into the river. We are saying, we want you to reduce one color unit and spend \$4 million. What's that going to do? It is going to waste \$4 million. What is it going to do for some other river in this state with the Majority Bill? It may impact very beneficially. The fact of it is each river has its own character, each river is different. Each river is ecologically connected to its tributary differently. The sun caves in Milford, a popular fishing ground for sunfish and bass, the color units in the sun caves is 180 units, you can hardly see the bottom, but it is still a good fishing area.

What has James River done to be a proactive business in this state? I don't work at James River, I am not on their payroll, they are not paying me to speak here today. The fact of it is I feel I have got to be responsible and look at what an industry is doing for the good of its community. In 1989, James River reduced its dioxin level from 210 parts down to a nondetectable amount, that is in one year. They did that by two processes that I am aware of, one of the processes is going to a substitute defoaming agent or it is a high chlorinate dioxide substitute which is basically a different defoaming agent, it also closed down its screening process. I understand that to be that it reduces the amount of liquor going

into the river. By those two things, they decreased the amount of color also in the river by 20 to 25 percent. They are proactive in what they are doing.

The last thing I would like to address are the two handouts that were passed out on our desks and these are the two things that were alluded to -- one was passed out by Representative Nutting, one was passed out by Representative Gould. The figures are pretty much the same. When you look at your sampling, when you look at the level of color in the river, why are the samples different? I have talked to Representative Nutting and I can indicate to him that I did not get in touch with Commissioner Marriott to be able to find out how they did the sampling. It is my understanding from talking with several people as to how they did that sampling and coming up with the color level of that river based on the discharge it is accommodating right now is that the DEP took ten samples over 100 days, the companies took 100 samples within 100 days. In my mind, they are both insufficient but at least the ten gives a better sample and has much more credible data. The fact of it is, if you going to do a proper sample, you are probably going to do it three times a week for a year or maybe two years to accommodate all the environmental impacts, rain, swells, the whole thing, to really get an accurate level of color. So the figures you have here and these big cost disparities are the fact that paper companies are saying with the sampling of 100 samples in 100 days, we have more credible data. For instance, Boise Cascade, we come up with an actual baseline of pounds of 406 pounds per ton. DEP comes up with their ten samplings in 100 days of 322.38 pounds per ton. Everybody agrees how much it costs per ton to reduce the color. That is the disparity in the amount of cost.

Before we are ready to plunge forward and ask these people to spend money when we question -- at least I question, I hope you question, the sampling technique and the cost arrived at the sampling, you would at least make a responsible decision and say that perhaps the Majority Report has gone too far. Perhaps the Minority Report is going too far. The fact of it is I guess I am willing to fly a little bit by the seat of my pants and say that we need to do something to the rivers in the state and I would prefer that we deal with each river differently. The fact of it is that we have got this bill before us, we have the paper companies that I think are willing to agree to spend \$60 or \$70 million to reduce color so I would urge that you would vote against the Majority Report and go on with the Minority Report. I feel the Minority Report is much more reasonable although that still has problems.

I would also say in closing that this is absolutely not a partisan vote, absolutely not a partisan vote, it is a responsible vote of the people that elected us to come down here to look at what we are doing with these companies, what we are doing as far as reducing color, what we are doing for creating jobs especially in the economic times we have in this state right now.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: We should keep separate the issues of jobs and color, odor and foam. Do we have a promise from the paper companies of more jobs if the Majority Report is defeated? We do not. In fact, as the companies put in faster and larger machines, they will need to employ fewer people. If we are only concerned with paper company costs, then only the paper companies can use the rivers. The rivers belong to the people of the State of Maine and

we should return them to the people of the State of Maine. I urge you to support the Majority Report.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I find myself in a little difficult situation here this evening. After voting for this bill the last time, I find myself at odds this time based on the situation that we have within the Katahdin area. You might want to remember these rivers we are talking about this evening are working rivers and they are a little bit different than just your pleasure river that you want to use to canoe on, they are being worked by the mills and they are being looked at a little bit differently.

When I was a young fellow growing up in Millinocket in a part of town called Little Italy where right beside the river -- and I remember working the river when I was a kid and picking wood hooks trying to make a few extra dollars to go to the movies. At times, the river was really polluted but over the years, I have got to applaud, particularly the Great Northern Paper Company where I live, that they have done a lot of work on those rivers in cleaning it up. I am not saying they did it on their own but they had a little bit of help but they are cleaning it up. It has been mentioned this evening where the numbers are very low that is coming into that waterway into other waterways.

For an example in the Majority Report, as I understand it, the Woodland Mill alone with the Majority Report to clean up the river would be about \$50 million. For an example, in East Millinocket just down the road from where I live, they want to do a recycling program and I am being told it would cost between \$30 and \$50 million. You have got to remember now these monies that are coming into these places are very competitive. The fact is there are other mills other than Georgia-Pacific such as Great Northern that is going to be looking for these monies just as well as Georgia-Pacific and the Katahdin area, Millinocket and East Millinocket. In the Millinocket mill alone, there is a study being done on the tissue and light-weight coated facility, those are going to be competitive dollars -- do you want to spend it on cleaning the rivers a little bit more or jobs? That is what I am talking about this evening is jobs.

If you remember back here a few years ago, G&N came to us and said they were going to have a layoff of probably 1400 employees. I can't stand here this evening and tell my people that we may go through a threat again of more layoffs just because I want to clean up the river. I can't put myself on that kind of a line.

You know Georgia-Pacific has bought out G&N in excess of \$3.9 billion some odd, somewhere in that category, and the monies are going to be tight over the years. We are looking for expansions particularly in the area where I live. If we are going to talk about cleaning up the river or putting new machinery in, I am going to have to look at new machinery for the people I represent and I hope this evening when you vote, you vote not to accept the Majority Report and go with the Minority Report.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: In my comments, saying that I have lived on the banks of the Androscoggin most of my adult life, a good portion of it, I grew up in East Livermore, Maine and attended the Livermore Falls High School. Basically it is a mill town for

all intensive purposes and my family purchased some land, approximately 40 acres on the banks of the Androscoggin at the point where the river bends in East Livermore. In the early 1970's when we lived there, I would walk along the banks, I would have to agree with another Representative who spoke about living on the banks that it was a terrible sight, you literally could not walk 20 feet next to the waterline because of where the foam and other materials had literally sifted their way up on the banks. Over the years, living along the banks of the Androscoggin and also doing some traveling to Lewiston, I saw the change. The environmental laws that have been passed at the federal level and I am sure some at the state at that time affected some changes by the companies. The companies knowing that their own efforts to keep the environment cleaner were beneficial and in the long run would be good for the company and good for the communities that they surrounded. So, I came to that when I moved to Lewiston with that background of living on that piece of land which I viewed as a wonderful view but a view that didn't have the full impact that it should of a real totally clean river where I could feel comfortable going down there and swimming without getting film covering my whole body as I have heard other Representatives talk about swimming in the river, being able to fish and not worry about eating the fish that I caught. I haven't been able to do that in my own homestead in East Livermore and I certainly can't do it in Lewiston. I am young enough to feel that in my lifetime, someday I will see a river clean enough to do all those things, even in the urban area that I represent.

Nature is an incredible, incredible item, it is a miraculous recycling machine and we see it in the seasons, we see it in everything else that goes on. But every machine breaks down and in terms of water quality in the rivers of this state, it is breaking down if it already hasn't been broken. What this bill is talking about is investing in bringing those rivers back to a state in which they should be.

The most appalling statements I heard during testimony in front of the committee in both public hearings and in work sessions and I have now heard it on the floor of this House, that this is non-productive dollars, non-job creation dollars. We are spending money and we are throwing it away because it won't do anything for the economy, it won't create a single job. That is totally false. Just in my community, we are on the verge of spending \$60 million if the rivers can be cleaned up appropriately so that the businesses and the other entities that want to purchase land and start a business on the banks and use that as their marketing tool, if they feel the state is taking that step, they are willing to spend \$60 million. Job creation and businesses that will start up because of that investment will be tremendous and that is just my community.

I am sure that along the banks of the Kennebec in Augusta as well as the Penobscot and all the other rivers in Maine, there will be similar investments in the small towns and in the urban areas because the river will then be viewed (in whatever part of the state it is) as a marketing tool. It is not just aesthetic folks, it is not just the color in terms of aesthetics, it is an issue of usability and that is what we are talking about. We are talking about voting out a Minority Bill which will basically do nothing. There will be some spending, there is no doubt about that, but we will not be making a major step. The major step is in the Majority Report and that is what we need to do. We need to make that

investment and we can't cloud the issue (pardon the pun) with, there is no job creation and this is non-productive dollars, we need to make that investment because it is important for the state as a whole in every section that is affected by water quality.

We expect in the 1990's, and I would anticipate for the life of the time that I serve in this body, more and more efforts and more and more mandates that say, if you create a damage to the environment, you must participate in cleaning it up. We see it with oil tanks, we see it with recycling, we see it with hazardous waste, we see it with air emissions and we should see it with water quality. There is no doubt in my mind and I don't think anyone can dispute it that the paper companies of this state contribute to the poor water quality in those rivers and they need to make a substantial investment to turn that around.

The last two issues I want to talk about are some misconceptions that I think have been raised here today. One, the issue of James River in Lincoln that they are not going to spend a lot of money in comparative terms to other parts of the industry when this bill passes because they are only going to spend \$4 million and it is only going to approve one color unit. In fact, the readings for James River in Lincoln are not done at the point of discharge, they are done outside what is called a mixing area and because of the size of the Penobscot and because of the flow of water along that discharge point, it is able to dilute enough so that outside the mixing area, the impact of this bill will not be that great. That is one of the reasons some of the others are not going to spend as much money. The fact is the Androscoggin is a smaller river than Penobscot, no one debates that, that is true but eventually we have got to get it to the point that we are not trying to remove color from the river, we are trying to eliminate more color going into the river and the natural course of things as nature takes its course will clean up the river as it is now. We want to eliminate additional discharge in amounts that will continue to destroy the river as a life source.

I would urge you to vote for the Majority Report and take the step that is reasonable and appropriate and not take the course of the Minority Report or an "Ought Not to Pass" and say we are happy with the status quo.

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

Representative MILLS: Mr. Speaker, Men and Women of the House: One of the arguments that is being made by the people tonight on why we shouldn't vote for the Majority Report that I find interesting is the argument that, even if you pass the Majority Report, you won't get the clean water that you want. That is an interesting point and it is a good point. But then in the next breath, they follow up with, that is why you should vote for our report which gives you even less. Doesn't make any sense as far as that perspective.

I think what is important also is to realize the historical argument and we talked about it before of what has happened in the past. For over 40 years, the arguments have been used time and time again when it has come to cleaning up the rivers. The basic argument is that, if you clean up the rivers you are going to cut profits and you are going to cut jobs. If you look at it historically on what has happened in the mills in this State of Maine just in the last few years, even with the record profits that have been made, you will find that history has proven just the opposite to be true, that the more we have cleaned up the rivers, not only have we been better

off, but the companies themselves have been better off. I think it is important to remember that.

The last point that I think is important to remember is, when people talk about a compromise here tonight, they talk about, let's vote for the other report because it is a compromise, I want to remind this body that a year ago, just a year ago, we overwhelmingly voted for a bill which would have cost the paper companies more than this Majority Report would and would have made them do it in a shorter time period. We overwhelmingly voted for that bill. That is why tonight I hope we vote for the Majority Report, get it on his desk and get him to sign it.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: My good friend, Representative Tammaro, said that he feels like the boxer in the ninth round. Well, he ought to swap places with some of us on the committee. We, too, feel like we have been boxers that have been boxed around. We have more facts and figures in our heads than we care to and we probably know more about lignin and oxygen delignification than we really ought to because it makes us dangerous.

I deliberated long and hard over this and whether you believe me or not, it is up to you, but I know many nights that I laid awake trying to think what was the best way to go. I thought back to last year when we had the bill and those of you that got up and spoke in favor of doing something about odor, color and foam but voted against the bill because you needed a cost, you needed some facts and figures as my good friend, Representative Lord, pointed out. We let industry do a study, it cost them a couple of million dollars, they did their study. Their study was supposed to come back with hard facts on odor, color and foam but they concentrated on color. They tried to make an aesthetic issue from the very beginning.

When the study was done, the department hired an unbiased, impartial consulting firm to review the information at hand and present their case to the Governor and DEP. The Governor of this state, the Governor who defeated Jim Tierney, on the platform of being pro-business, helping business out, and he defeated Mr. Tierney on that platform, Democrats in my district voted for Governor McKernan on that platform because they felt Jim Tierney was anti-business, came forward with a bill that was sponsored by Representative Stevens of this House with a \$220 million fiscal note on it. Men and women of the House, that is what we are talking about, fiscal notes. You want to kill a bill in the legislature departments, put a big fiscal note on it, it's dead.

Well, the paper companies have learned that lesson well. They put a \$360 million fiscal note on that but for \$220 million, the Governor of this state, the pro-business Governor that campaigned and was elected on that platform, put his position forth. I assume at the time he thought that the \$220 million invested was a sound investment for the water quality protection in the State of Maine.

Every opportunity I have to meet with CEO's of these paper companies, I ultimately ask some of the same questions, "How is it doing business in the State of Maine? Why do you like doing business in the State of Maine? Why do you dislike doing business in the State of Maine?" I asked why they expanded? I asked S.D. Warren in Hinckley, "Why did you expand in Somerset Mill, why did you build a new mill, why have you spent \$600 million plus there?"

He said, "Because it is a nice place to do business." Ultimately, the CEO's tell me "When our employees get off their work, sweating out their days in those mills, we need a place for them to go to rest and relax, we need a place for them to R and R."

One thing that I have been consistent on in my 12 years in this House is that I firmly believe that any industry that comes to the State of Maine or expands in the State of Maine at the expense of either our people, the citizens you and I represent or our environment, our two greatest natural resources in this state, are a business that you don't want and sooner or later, you are going to pay for those indiscretions.

I labored long and hard looking at two sets of figures that were brought forth by the DEP and PII0. I hope that everybody who got up and talked about jobs will be able to get up and say I told you so in a few years that by not passing any more environmental standards on these industries, they are going to expand jobs, they are going to expand machines, but I tell you my experience has been, when you modernize, when you speed up mills, it costs jobs because they are not going to spend a lot of money to put a machine in to take the place of 20 men if they still need 20 men to do it. Just go look and see what happened to Scott Paper in Winslow and S. D. Warren in Hinckley and you will see that is a fact, that most of the time when you modernize based on increasing your profits and productivity, ultimately it will cost jobs.

In my 12 years here, I have always voted to support tax credits on new machinery and equipment, energy tax credits, Kyes Fibre on saving electricity bills which they were dependent on, never mind the fact they hadn't done a thing to modernize their mill in 40 years. This legislature voted, that if they needed the help, they would get it.

I have voted against Millinocket Fin and Feather Club saying that, if these paper companies don't provide free open access to their lands, we should take away tree growth from them, we should take away all the tax benefits we give these large paper companies. I voted against that, not because I like them, but because I didn't think it made any sense that if you do want these companies to continue to operate in the State of Maine, you indeed have to do something. You have got to remember, every time we vote for a tax break for them, it costs our constituents some money one way or the other. I have been willing to do that because that makes good sound economical sense. Allowing companies to continue to use our rivers for their own sewers do not. To give credit where credit is due, some companies have done real good jobs and they are doing better all the time because they realize it is good business, it is good business to make improvements in the environment.

The main reason we have these problems is because you and I have been brainwashed that we like nice clean white toilet paper and tissues to blow your nose on. That is why you have odor, color and foam in the rivers, it is the process to make that tan and brown product white so we can dye it pink, blue and green and make it smell nice and perfumed — then you buy it. I am talking about toilet paper and paper to blow your nose. Doesn't make a lot of sense to me but I guess that is the way it is, we have been sold on it, we have accepted it and we have gone along with it.

Just so you know that I am not anti-paper company, my dad worked for Scott Paper for 40 years. He was the first Scott man in the wood yard at the S. D. Warren plant in Hinckley. My three brothers currently work — one at Scott in Winslow, two work

at S. D. Warren in Hinckley, they have five children between the three of them and one thing I don't want to do is see them lose their jobs because I don't want to support five children. If I did, I would have gone out and had five children of my own to support long before now. I am not anti-paper company because when they make sound sense, I have voted to support them. In this case, I firmly believe from my experience as a practicing fisherman, as a practicing observer of water quality, that indeed reducing odor, color and foam in our rivers will have a significant impact on our rivers, whether it be 25 or 50 percent, the figures that are bounced around. If I told you today that I will take 25 or 50 percent of your pay, I think that you would all say that that is a substantial amount. If someone was going to take away 25 or 50 percent of your children or grandchildren, remove them from your life, I would say that you would say that 25 to 50 percent is indeed a significant amount. Make no question in your mind, 25 to 50 percent reduction in odor, color and foam is indeed a significant amount and it will indeed improve the quality of water in our rivers and it will indeed improve the quality of aquatic life in our rivers and it will indeed improve the quality of our plant life in our rivers and maybe someday your children or grandchildren may be able to swim in these rivers.

The fishermen on the Penobscot tell me they love it when James River releases color into the river because the salmon are so desperate to get out of that river, they will bite on almost anything that the fishermen will throw their way, they are fighting to jump out of the river. I just did that so that you will know that I haven't lost my sense of humor on this whole thing.

Yes, we feel we have been battered on and we have been beat on and yes, some of the paper companies have done good jobs. The problem I have with — I was one of the first ones that brought forth the idea of 225 Best Practical Treatment, bounced it around and we bounced it around. We went to 250 because we understood that there had to be some flexibility there because technology is not perfect and everything will not be perfect on a day-to-day level. The companies did not want 250 because they said that the costs were the same with no real benefit. Now we are debating whether we should go with 225 or 275. I will submit to you the reason I went with the Majority Report is because the companies are right, 275 will do basically nothing, it will make them spend money to do basically nothing and indeed anybody who is looking at the river once they reach 275 will not be able to tell you the difference, they will not be able to tell you the difference in most of the rivers of this state. I am just afraid if you go along with something like that, that next year when the bill comes in to do a better job of cleaning up the rivers, and it will, we will say we passed 275, they have got five years to do it, we have done something, we have started on our way. My argument is, before you make them spend that money to do 275, you are right, let them keep the money in the mill, let them hopefully keep Maine people working on those jobs, because 275 isn't going to be noticed. They are exactly right, I agree with the companies, they have changed that since 225 came out but that is the contention they made and I agree with them on that.

I want to tell you that this whole process, if nothing else, has been a wonderful learning experience for me because, from now on whenever these companies come forward to the legislature if I am still here, I am going to ask the same question over

and over again -- by passing these tax savings to you at the expense of the elderly in my district, by going along with these forestry policies that benefit the large landowner, how many new jobs am I going to create? Can you guarantee me that you are going to keep the jobs that you now have? Their answer had better be yes. If the answer is no, they better not depend on this Representative to give them a vote. It is not a one-way street, men and women of the House, it is a two-way street, it is a give and take. Some day, somewhere along the line, the companies are going to have to realize that. I don't know if they have now.

Someone said, this is not a partisan issue, you are right, it is not, but it is a very political one. I will submit to you that this will be the most political issue of the 1990 elections in the State of Maine whether in the House, Senate or Gubernatorial level, regardless of whichever way you go, it will be a political issue.

I spent the weekend at the Augusta Civic Center with the sportsmen of the state and yes, they are a selfish interest because sportsmen are selfish, they are. They would like to have some of the rivers for themselves but this was the most talked about issue discussed at that sportsman's show. They made it very clear to me that they expected us to do our job. I guess on how you did the job will be determined by their evaluation after we dispose of this issue in this legislature. I will predict to you it will be back again and again and again because, whether this legislature and this Governor deals with odor, color and foam in Maine's rivers for Maine's people, some legislature, some Governor along the line, is going to do it.

I felt when I made the motion to go to 225, when I went to go five years, that we indeed were making a major first step and hopefully five or seven years down the line from now, we will not need to put odor, color and foam in the rivers of this state, we will catch up with some of the other countries in this world, we will not need pure white toilet paper and tissue paper and the rivers will go back to the people that own them but they will make that decision, you will make the decision and they will make the decision later on. I don't have any problem with that.

I can't guarantee you we have done the right thing. I have weighed the odds, I have weighed the costs -- the Governor thought \$220 million was appropriate, ultimately I figured the \$65 million that our report came down with was even more appropriate. To say we did not listen to the paper companies concern is not the fact, it is absolutely not true, we had countless work sessions, we gave people a chance to get up over and over and over again and say the same thing to the point where I thought we must be the dumbest committee in the Maine Legislature. We gave them their opportunity and how you vote today is up to you, I will not hold it against you. I have told my good friend Representative Tammara that he has to represent his people, I have to represent mine, but the Minority Report does nothing. So, if the Majority Report is not accepted, then I will agree with the paper companies of this state and go with absolutely nothing and maybe next year we can come back and deal with this issue, once and for all.

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

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I don't apologize for getting up and speaking. I know you are tired of it but this has been a very, very important issue.

Representative Jacques said we listened -- we spent hundreds of hours listening, listening to people present ideas and listening to ourselves arguing with ourselves.

I would like to point out one thing, Representative Jacques, it is not my fault that we have white tissue for our nose because I am a woodsman and you know how woodsmen take care of that problem, so it isn't my fault on that issue.

I would like to point out that you people probably have been facted and figured to death, you probably have absolutely no idea what the true facts are and no idea what the true figures are. I know many of us on the committee wonder what the true facts are and the true figures are. You get DEP saying one thing, you get the paper company saying something else, who do you believe? Are both of them telling us falsehoods? Are both of them telling us the truth? If they are both telling us the truth, how can we have such wide variations?

I would just like to take a minute to explain why there are wide variations because I think it is important for you to realize that both sides are giving what they consider to be proper facts and figures. I am sure probably both sides embellish their facts and figures a little bit to present their ideas in the best manner possible. I think we all do that, I do it, everybody else does it.

Let me explain to you one issue, the issue of \$70 million for Scott Paper. Scott Paper says that it will cost them \$70 million to get to 225 pounds. The DEP gives the figure at \$8 million. Now you say, how can reasonable people, intelligent people, come to such a wide variation? That is an excellent question and I am going to explain it to you to show you why I had a great difficulty in determining what is what. Somerset said, to reduce the color level, (Somerset being Scott Paper at Hinckley), Somerset says to reduce the color level 40 percent to get from where they presently are to the 225 pound limit, they have got to reduce this by 40 percent. The company believes that a 40 percent reduction requires a technology known as oxygen delignification and this will cost approximately \$70 million, \$25 million for the machine itself, another substantial amount because, during the time they are putting in the machine, they have got to buy pulp if it is available, and most of the pulp wouldn't be available in-state, but would be available outside of the state. It would be at a considerable cost, several million dollars to do this plus other technology going in to placing this oxygen delignification on line. Now, this is what Scott Paper says, it would cost them \$70 million to reach that 40 percent reduction.

The DEP believes that high chlorine dioxide substitution would achieve the 40 percent reduction. The DEP says this will cost approximately \$8 to \$9 million. What they are saying is that Scott is wrong and that it will only cost \$8 to \$9 million to use this technology known as chlorine dioxide substitution. By the way, if you understand what all this means, you are a lot father ahead than I am because I don't understand what all of it means. Anyway, that is what DEP says.

The question this raises in my mind is, who is right? Is Scott Paper right when they say that it is going to cost them \$70 million to do this job or is the DEP right when they say it is only going to cost \$8 to \$9 million? I don't know who is right.

Remember, I said that possibly both sides would embellish their figures a little bit to get their best point of view across. Although it does strike me as reasonable that Scott Paper, a company by the

way at Hinckley, has invested over \$1 billion, \$1 billion in the State of Maine and in the paper industry in the State of Maine.

As a matter of fact, digressing just a little bit, Scott Paper is putting in a paper machine at the cost of approximately or it is getting up to close to \$400 million now. When they originally estimated the cost, it was about \$375 million and, as almost everything does, there is a cost overrun and they are getting up to close to \$400 million, remember what I just said, there is a cost overrun as almost everything that we have ever seen take place has a cost overrun. So, we are talking about a company that has invested greatly in the State of Maine. I have a tendency to believe that they know what they are doing, that their technicians know what they are doing, their engineers know what they are doing, that their experts know what they are doing. I think Scott Paper, which is a multi-national corporation has a good technical work force. They probably have a far better understanding of what it is going to cost to reach this level of color reduction than DEP, who does not have a big staff to do this, who relies on other people to do it. My point is, I have a tendency to agree with Scott Paper, not because I think Scott Paper is a wonderful outfit, being a woodsman I don't always agree with Scott paper, I don't always agree with the price they give me. I don't always think Scott Paper is such a wonderful company but I do realize that a company that is as important to the State of Maine deserves to have a little consideration, deserves my thought as to what they are doing.

Do the people of the State of Maine deserve to have their rivers cleaned up? Absolutely they deserve that, I deserve that, you deserve that, everybody deserves it. We need to have good clean rivers. Can we do it all at once? Do we have the funds available to us to do it all at once? I don't believe we do, we may have, but I don't think so. We can't even find enough funds in this state to do everything that we passed to do last year. We are \$210 million or whatever you want to call it, short. So, I don't think we have got the funds to do everything that we want to do. I don't think we have the funds to totally clean up the rivers. What is my solution? My solution, along with the others on the Minority Report, is to make a step, to make a first commitment.

It has been said that the Minority Report will do nothing, I disagree with that. It won't do as much as the Majority Report but don't forget it won't cost nearly as much as the Majority Report but it will be a good first step.

To get to 275, we are going to have to reduce below the 275 number because they can be (they being the paper companies) punished for going over that 275 so they have got to make sure that they can get below a margin of 275 that they can reach on a regular basis. That means they have got to develop technology that will go down to less than probably 250, down to 240 or 250. I won't try to get into much detail because I know where you are going to get, just the same as where I have gotten. But, if you reduce down to 275, according to DEP, Boise Cascade will have a 14.7 reduction -- this is without any safety margin that I referred to. International Paper will reduce the color by 19.34 percent. S.D. Warren at Somerset, 24.88 percent. S. D. Warren at Westbrook, 12.5 percent, Georgia Pacific, 31.74 percent and that is without the safety margin. With a safety margin, it would be greater. I grant you that doesn't do as good as the Majority Report but it is a first step. It would allow the paper companies

to make this beginning and it would allow them to be able to make further investments in productivity that would help the people of the State of Maine.

I will close with this one last thought -- I never heard any company in front of us threaten to pull out of the state if we were going to pass this bill, no matter which one. It has been said they threatened to pull out -- I never heard one company threaten to pull out. I never heard one company say that they were going to write people off. They said there was a possibility that they would not create new jobs because they wouldn't have investment capital. I happen to think that is a reasonable point of view. Ladies and gentlemen, never did they say they were going to pull out and I don't expect the paper companies to pull out. I certainly hope not because some day I hope to get back in the woods and start cutting some more trees and I would like to have somebody to sell them to. So, I certainly hope that the paper companies don't pull out.

I apologize for rambling on but this is an important issue and I thank you for listening.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: One of the comments that was just finished up by Representative Gould was something that was referred to by another member about the jobs. I did not attend as many meetings as I would like to have, I was at the public hearing, I have talked to a couple of other members and I don't recall anybody from the industry suggesting at any time that they would create jobs if this bill were defeated. You just heard what Representative Gould has said, I don't believe that is the case and I don't believe that the Representative from Waterville heard anybody make that statement either.

I rise tonight to ask you to vote against Report "A" and go on later to support Report "B." I don't pretend to be an expert on color or foam but I can tell you this, from my observation, attending, sitting in and watching and looking at some of the displays and whatever, this amendment of Report "A" is not going to have any significant impact on color, not any. There was no rebuttal from the department, no rebuttal from anybody, it is not going to have an impact.

As to foam -- how much foam will be reduced by Amendment "A?" The fact of the matter is nobody knows and what may very well happen is, we will be forcing five companies to spend millions and millions of dollars and we still may have foam on the river.

Earlier the Representative from Leeds said that there hasn't been a job lost. In my judgment, that is very difficult to establish, very hard to point out, but as I stated at the hearing and I tell you now, that if we continue to put these kinds of costs on the industry, I am very concerned about the mill in Westbrook where I am from and I am very concerned about the mills around the state where you are from. I think the possibility of Scott Paper making drastic changes at S. D. Warren in Westbrook are very real and I am very concerned about that in this day and age. Frankly, just to make the water a shade color less that nobody is ever really going to notice and risk the possibility of losing a job, even a job, is a concern to me.

Earlier the Representative from Leeds also commented on the number of differences of opinion. Representative Gould has just pointed out again the differences in amounts of money. I submit to you ladies and gentlemen of the House that the very fact that there are so many differences of opinion, from so many different sources, that that in itself should

indicate to you that this legislation is not right at this time.

While I am saying that, I am still at the same time -- and someone said earlier, Representative Mills said, we ask you not to support "A" but go ahead and support "B." He also used the word compromise and I submit to all of you that is what this is. Report "B" isn't the lesser of two evils, Report "A" isn't either, neither of them are what I would go along with. I would just as soon see it "Ought Not to Pass" but as a compromise, I would accept this one.

I was at the hearing on this bill when the commissioner himself stated and was asked to repeat and he did repeat that the DEP admits that color is not a health issue. Why then are they making color such an issue?

In my judgment comparing the substantial uncertainty of reduced smell and foam to the clear financial damage to the paper industry resulting from the expenditure of large sums -- and wherever you fall in this amount of money, whether it is at the low end or the high end or somewhere in between, any of them will be substantial costs to the companies. It is poor public policy to mandate such expenditures for such a questionable use. Such a requirement would further erode Maine's image as a good place in which to live and do business.

Since the color change this bill would mandate is imperceptible to a substantial portion of the population and does not and cannot guarantee any improvement in odor or foam, Report "A" should be defeated. The Minority Report color standard is a workable plan for the mills, at a more reasonable cost, a more reasonable plan. No one is able to see the difference in river color, I have already mentioned that, there is no health, scientific or technical justification, we have already commented on that.

The Minority Report as Representative Gould just said gets this thing started. The mills will continue to improve river standards under this particular version. In my judgment, the Majority Report, Report "A" is a disincentive for new investment in Maine. On the national average, about 20 percent of paper industry expenditures go to environmental protection and improvement. In the past two decades, there has been obvious improvements throughout the country and I will digress to talk about the mill that I am most aware of.

As I said at the hearing, for years and years and years, S. D. Warren in our city, and I will admit it, was allowed to dump without regard for anybody or anything into the river and it settled or drifted away and nobody paid any attention to it. We had jobs and we had taxes and it was wonderful. But I will submit to you at the same time that long before pollution control and environmental issues became a household word in Maine or anywhere else, even before Senator Muskie, S. D. Warren was spending and is now spending and will continue to spend millions of dollars to try to bring that river back. I submit to you that this is not the time to put even further costs on them.

Finally Mr. Speaker, perhaps I could leave it as a question in a sense but I would like to ask this question through the Chair if I may to anybody on the Majority Report that would like to respond -- in the first paragraph of Report "A", it finishes by saying, "and the process technology to accomplish this objective will enhance the competitive position of this industry." I would ask somebody on the Majority Report to explain to me how forcing five companies to spend millions and millions of dollars enhances their

competitive position when none, ladies and gentlemen, none of their competitors will have to meet the same standards?

The SPEAKER: Representative O'Gara of Westbrook has posed a question through the Chair to any member of the Majority Report who may respond if they so desire.

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I will try to dig through my stuff while I rebut some of the remarks to find the answer.

There has been a lot of talk about this bill and the variations between the cost. The Representative from Westbrook, I assume, is going to be supporting Report "B." However, the cost figures on the fact sheet that was distributed by Representative Gould of Greenville, prepared by P110, were done by the same outfit. If you look at the cost figure of 275 pounds for S. D. Warren, Somerset, according to the figure of the industry, it is \$70 million. According to the industry figure for S. D. Warren in Westbrook, it is \$4.1 million. If you look on the reverse side, the cost of the 225 pounds for S. D. Warren in Somerset is \$70 million, it is the same cost. The cost for S. D. Warren in Westbrook was \$4.1 million, it's the same cost. So, if they are arguing as far as cost, this is done, the cost might be wrong, but it is done by the same source and they have the same figures as far as 225 pounds versus 275, so the cost is the same and they were prepared by the same source.

True, the cost figures varies greatly. You might ask, who are we to believe? You have to remember the difference between the mills and the DEP baseline stems from the fact that the mills had done theirs on a ten year average, a ten year average, that is why the figures are so far off.

If you look in the report, Georgia-Pacific consultant, Charles T. Main, had stated in the Paper Industry Information Office that Georgia-Pacific can discharge at a standard of 224 pounds of color unit for a cost at \$8 million. That is the industry's report, they can attain it.

When the DEP and the Governor's Office asked about the best practical treatment, what is the best number, 225 was what the committee came up with, (we didn't pick that out of the air) that figure came from a range of 200 to 250 which was what a consulting firm, an independent consulting firm, that the department had to work on this study when they studied the DEP report and they recommended that, if we were going to pick a figure, it should range anywhere from 200 to 250. The majority of the committee decided to go along with the 225.

I would hope that the majority of this House would go along with the Majority "Ought to Pass" Report. I think it is a pretty good report. Of all the speaker's from the committee, this has been one of the most difficult, most stressful piece of legislation that we had because we had a lot of experts giving a lot of information. We had the DEP in several times, which reputed some of that information and, unfortunately or not, we had to make a decision the other day and that is when we decided to come out with three reports. I would hope that you would go along with the Majority "Ought to Pass" Report.

For those people who are concerned about Westbrook and Somerset Mills, under either one of those reports 225 or 275 whichever one you want to go along with, the industry's same figures, whether they are right or not, are the same figures that they gave us and are both the same for the 225 or the 275. So,

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

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. First, I would like to say I would like to compliment the committee on its fine work for everything they have done for the reports they brought out and bringing this issue before us.

The biggest thing I keep hearing here tonight is money, dollars, so it boils down to money. I would like to let you know that my community has already spent, like I told you last year, almost \$15 million to clean up its mess. These are taxpayers' dollars that we are talking about right now, the people, like the people's river.

The Androscoggin River, if it gets cleaned up, like Representative Jacques was saying, right now is looking at some potential growth, anywhere from \$200 million to \$300 million, is that small money? That is just on the Androscoggin on the small end, think of the whole river.

Ladies and gentlemen of the House, I don't want to talk about dollars because that is not the issue. The issue is the river. It belongs to the people and sometimes I really, really wonder in hearing all this debate, who does this river really belong to? Do we answer to the corporations here or does this river belong to the people? Yes, you may say Lewiston and Auburn, but remember one thing, the river does not just flow through Lewiston and Auburn, the river starts from up north and comes all the way down, the river belongs to the people.

I have the hardest time to understand -- and I see on television at night and read it in the newspapers when I go home -- I hear about someone who desecrates some of our monuments, either in Washington or in this state or in a municipality and we think of how sacrilegious that is to have smeared paint or something like that -- what do we do? What do we do? We clean it up. Did we put a price tag on it? No, we cleaned it up. Yet, ladies and gentlemen of the House, one of the greatest treasures you have in this state is the air you breathe, the land you walk on, and the water you have. The thing that really surprises me, we have put a price tag on our rivers.

I am not here to talk to you about denying someone a job. I am very pro-business. Business means much to my community but I have people back home who are not fortunate enough to afford a swimming pool. I have one, many of you here have one, but I would like to ask you a little test right now, if you all went home this evening and went in your backyard and emptied out your pools and let me go get some trucks and truck in some water from the Androscoggin River, would you let your children swim in it? All I ask is for you to think about it, would you let your children swim in it? I know I wouldn't but yet what you are telling me, it's good enough for the Androscoggin, it is good enough for those little kids that live down in Little Canada whose parents work hard at minimum wage and cannot afford a pool. The only opportunity they have is if they can get to the city park. We have a beautiful river, but yet our children can't swim in it, you can't eat the fish, what is it good for?

We hear about color -- you won't see a difference. Then all I ask the paper industry is, what you take in, you discharge. Whatever color you take in, you discharge that same color. They say they can't do it. Why? Because they have added

more, they had to. All I ask is, just release the same as what you took in.

This past week Congress in Washington enacted a great piece of legislation, the Clean Air Act. Ladies and gentlemen of the House, remember this is not just a state issue, it is local, state and federal government. We must get together.

I think Representative Carter said it well today, he visited Europe, take the time to learn what is happening there. We may be America, there may be water separating us, but the time is near, don't wait.

All I ask you is, please don't let dollars smear the whole thing because when you go home, like Representative Jacques says, I firmly believe it, regardless of where you go, what side you stand on this issue, this will be a key issue. I know one thing right now, I speak for the people of my district, District 69, who responded to my questionnaire. Better than 97 percent of those people said to clean up that river. I have heard from some of the people who are working in the paper mills who have had pressure put on them and we have been told they want the rivers clean.

Sure, a job is very important, I can always find a job, but I can't make another river. Think about it, the majority of the people in this state are now saying to you, jobs are not the number one priority. Look at the statistics, they are saying it, they want a clean environment for them and for their children. I beg you ladies and gentlemen of the House to support the Majority Report.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I have been sitting here and I just heard one of the good Representative's say that 225 -- Georgia Pacific could meet that. They certainly could meet it but they might meet it one day and get fined \$10,000 or \$15,000 the next day and the next day after that. They should not stay at 225.

I would like to know what the difference is between 225 and 275, which is only 50 ton pounds. How much water can you clean up between 225 and 275?

This bill concerns my constituents' jobs, not color. The seven miles of river which is an international river -- if you choose to support this Majority Report, you will require Georgia-Pacific to spend \$55 million on seven miles of river which is \$8 million a mile. You can build a road for \$1 million a mile. The seven miles of water -- there is nobody living on that water until you get within two miles of the Atlantic Ocean (I think it is the Atlantic Ocean, I don't have that much education) and that all goes out to over in Arabia -- I don't know where it goes but it all goes out about every ten or twelve hours, so I don't see why you would want Georgia-Pacific to spend \$8 million a mile on seven miles of international water.

It is the opinion of some of the best consultants available that you will not be able to detect a change in the river color. If this legislation goes into effect in that seven miles of river, I appeal to you that the Minority Report will establish the DEP limit of 275 pounds. This will require Georgia-Pacific to spend \$8 million and I urge you to vote against the Majority Report.

This state is in a financial crisis, we cannot afford to make the wrong decision regarding this legislation. Maine must retain this industrial base if we are to qualify for employment opportunities for Maine citizens.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Members of the House: It isn't very often I disagree with my House Chair but I find that I have got to on this case. If you will look at this chart, you probably didn't get it but you got one last year, it was black and looked like a yo-yo up and down and this is a chart taken at the S. D. Warren Mill in Westbrook on the daily effluent color from March 1, 1989 to March 31, 1990. You will find that the average color unit for that year, the average color unit for that year, is identical to the color year that is on this report that was sent out to you by Representative Gould.

I also might say, that in the consultants report that was handed to the Governor, on page seven, appendix seven, they used the actual baseline which is in column one. We have heard tonight that 275 does nothing, but I urge you to look at the actual on column three and the DEP report on column four and you will find -- although it does -- no question on 225, naturally it is going to do more. But if you look at the 275, it does quite a lot and for the amount of money that you are going to spend, is it all worth it?

Representative Nutting mentioned the standards that other states have and this is part of the testimony that the Natural Resource Council of Maine gave to us when we had our hearing. I would just like to refresh my memory and advise you just what some of the things say here. This is the water quality criteria. Alaska Water Standard, water supply, it says not to exceed 75 color units. Water supply for agriculture, (the first one was for drinking), water for agriculture, not applicable. Water supply for aquaculture not to exceed 50 color units. Water supply for industrial, if you look over in the right hand column under color, it says "shall not cause detrimental effects on established water supply treatment level." It doesn't mention any color units at all, not a word in here about the number of color units. Down underneath it says, water recreation shall not exceed 15 color units. That is what this Alaska report is.

I have spent a lot of time on this, I have lost a lot of sleep. I have gotten up in the middle of the night and thought about this. Between this and the minimize of toxic waste and some of the other stuff, I will be darn glad to get it all over with. Maybe I will get a good night's sleep for a change.

I hope you will not pass the Majority Report and go with the Minority Report, it is doing something and we are going to do something and we will continue to do something. When it comes out on the dioxin, there is going to be a lot more done, naturally they are going to, but for heavens sake don't kill the goose that laid the golden egg.

Representative Martin of Eagle Lake requested a roll call vote.

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

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

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I know it is late in the evening. I haven't lost a lot of sleep over this bill until tonight, in fact most of my time tonight has been thinking about why I like white Charmin, I am really not sure, I didn't know I was contributing

to the problem. I guess it is the contrast that just tells me that I have done a neat job.

I live on a clean river, the Saco River. It hasn't been a working river as you know it since 1943. I was trapping at the time as a young lad and I had to take my traps up when they ran the logs on that river for the last time.

There are all sorts of experts, I am sure, that have come before this committee and told you that you should or shouldn't do this and it is going to cost this much or that much. At times, I am absolutely sure it was bewildering.

I stand and rise to speak in behalf of the Majority opinion, the Majority Report of this Committee only because to me it is the fairer. A year ago, I voted for the Rivers Bill and our leader on the second floor came back to those on this side of the aisle and said that it should be studied further, that we should wait until 1990 and regardless, there would be a bill put in that would not extend the time for cleanup of these rivers and that has been done. That is the bill we had sponsored by Representative Stevens.

Our rivers have historically been used as open industrial sewers in this state. I would suspect that back when they had the argument on stopping log drives in this state, they paralleled the debate that we have here tonight, but we did stop that type of use of our rivers. Tonight we are making another incremental step, it is not a total step, it does not clear up the rivers, it does not satisfy all and it certainly disturbs many. It is probably a good bill because there are as many speaking for it as those opposed. I am a firm believer, if those out in the public ranted and raved on both sides of an issue in a strong degree, that those of us who choose a middle course, do best to serve the most.

The rivers are like our highways, they have been used that way for centuries. Yet today, we no longer allow litter on our highways. We even charge the guy that throws out a gum paper wrapper if we can catch him. We have put in bottle bills so that kids will go back again and pick up bottles to return them from our roadside but our rivers continue to be polluted. I know they are worked, I know there are jobs made by those who work in mills that use the rivers. I trust that industry is caring enough that they will continue to preserve those jobs but I am wide awake enough to know that industry preserves jobs where there is money to be made. That is what we are all about when we are in the marketplace, that is what most of us do when we go home and work as citizens in the marketplace. But we do, nevertheless, want a quality of life for all of us. To me, the Majority Report does make that step. It is a leap in faith as to all of the opinions of many consultants, diverse as they are, I think we have to make the choice of what is the fairer for most. I have to urge you all to go forward and approve the cleaner river.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Michaud of East Millinocket that the House accept the Majority "Ought to Pass" Report "A" as amended.

The Chair recognizes the Representative from Athens, Representative Rotondi.

Representative ROTONDI: Mr. Speaker, I wish to pair my vote with Representative Allen of Washington. If she were present and voting, she would be voting yea; I would be voting nay.

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

Representative CROWLEY: Mr. Speaker, I wish to pair my vote with Representative Richard of Madison. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Michaud of East Millinocket that the House accept the Majority "Ought to Pass" Report "A" as amended. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 222

YEA - Adams, Aliberti, Anthony, Ault, Bell, Boutillier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cathcart, Chonko, Clark, M.; Coles, Conley, Constantine, Cote, Daggett, Donald, Dore, Duffy, Erwin, P.; Farnsworth, Foss, Foster, Graham, Gurney, Gwadosky, Hale, Handy, Hastings, Heeschen, Hitchborn, Hickey, Higgins, Hoglund, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Pederson, Pineau, Pouliot, Priest, Rand, Rolde, Ruhlin, Rydell, Simpson, Skoglund, Smith, Stevens, A.; Stevens, P.; Swazey, Telow, Tracy, Tupper, Walker, The Speaker.

NAY - Aikman, Anderson, Bailey, Begley, Butland, Carroll, J.; Cashman, Clark, H.; Curran, Dellert, Dexter, DiPietro, Farnum, Farren, Garland, Gould, R. A.; Greenlaw, Hanley, Hepburn, Hussey, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, McPherson, Merrill, Moholland, Murphy, Norton, O'Gara, Paradis, E.; Parent, Paul, Pendleton, Pines, Plourde, Reed, Richards, Ridley, Seavey, Sheltra, Small, Stevenson, Strout, B.; Strout, D.; Tammara, Tardy, Townsend, Webster, M.; Wentworth, Whitcomb.

ABSENT - Dutremble, L.; Jackson, LaPointe, Larrivee, Marston, McCormick, McKeen, Sherburne.

PAIRED - Allen, Crowley, Richard, Rotondi.
Yes, 85; No, 54; Absent, 8; Paired, 4; Excused, 0.

85 having voted in the affirmative, 54 in the negative, with 8 being absent and 4 having paired, Report "A" "Ought to Pass" as amended by Committee Amendment "A" (H-1067) was accepted, the Bill read once.

Committee Amendment "A" (H-1067) was read by the Clerk and adopted.

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

The following item appearing on Supplement No. 24 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE
Non-Concurrent Matter

An Act Creating the Long Pond Water District (S.P. 916) (L.D. 2322) (C. "A" S-606) which was passed to be enacted in the House on March 29, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-606) as amended by Senate Amendment "B" (S-652) thereto in non-concurrence.

The House voted to recede and concur.

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

PAPER FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333

April 5, 1990
Honorable Edwin H. Pert

Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Insisted and joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on Bill "An Act to Prohibit Family Exclusion Clauses in Automobile Insurance Policies" (H.P. 1598) (L.D. 2222).

The President appointed on the part of the Senate the following:

Senator THERIAULT of Arrostook
Senator BUSTIN of Kennebec
Senator GOULD of Waldo

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Reference is made to (H.P. 1598) (L.D. 2222) Bill "An Act to Prohibit Family Exclusion Clauses in Automobile Insurance Policies" (C. "A" H-1018)

In reference to the action of the House on Thursday, April 5, 1990, whereby it Insisted and Asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Representative TARDY of Palmyra
Representative CONLEY of Portland
Representative MARSANO of Belfast

The following item appearing on Supplement No. 22 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE
Non-Concurrent Matter

Bill "An Act Concerning the State Minimum Wage" (H.P. 1646) (L.D. 2279) on which the Majority "Ought to Pass" as amended Report of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-1046) in the House on April 5, 1990.

Came from the Senate with the Minority "Ought Not to Pass" Report read and accepted in non-concurrence.

Representative Pineau of Jay moved that the House Insist and ask for a Committee of Conference.

Representative Reed of Falmouth moved that the House recede and concur.

Representative Pineau of Jay requested a roll call vote on the motion to recede and concur.

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 Reed of Falmouth that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 223

YEA - Aikman, Anderson, Ault, Bailey, Begley, Brewer, Butland, Carroll, J.; Constantine, Cote, Crowley, Curran, Dellert, Dexter, DiPietro, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McPherson, Merrill, Murphy, Norton, Nutting, Paradis, E.; Pendleton, Pines, Reed, Richards,

Ridley, Seavey, Small, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth, Whitcomb.

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

ABSENT - Allen, Dutremble, L.; Jackson, LaPointe, Larrivee, Marston, McCormick, McKeen, Richard, Sherburne.

Yes, 54; No, 87; Absent, 10; Paired, 0; Excused, 0.

54 having voted in the affirmative, 87 in the negative, with 10 being absent, the motion to recede and concur did not prevail.

Subsequently, the House voted to Insist and ask for a Committee of Conference. Sent up for concurrence.

The following items appearing on Supplement No. 20 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Ought to Pass as Amended

Report of the Committee on Banking and Insurance reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-638) on Bill "An Act to Amend the Fresh Start Provision of the Workers' Compensation Insurance Laws" (EMERGENCY) (S.P. 940) (L.D. 2378)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-638) as amended by Senate Amendment "A" (S-651) thereto.

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-638) was read by the Clerk.

Senate Amendment "A" (S-651) to Committee Amendment "A" (S-638) was read by the Clerk and adopted.

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 in concurrence.

Non-Concurrent Matter

Resolve, Authorizing the Conveyance of Certain Public Lands and the Settlement of a Boundary Line Dispute Involving Public Lands (H.P. 1779) (L.D. 2446) on which the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-1062) Report of the Committee on Energy and Natural Resources was read and accepted and the Resolve passed to be engrossed as amended by Committee Amendment "A" (H-1062) in the House on April 5, 1990.

Came from the Senate with the Minority "Ought to Pass" as amended by Committee Amendment "B" (H-1063) Report of the Committee on Energy and Natural Resources read and accepted and the Resolve passed to be engrossed as amended by Committee Amendment "B" (H-1063) in non-concurrence.

On motion of Representative Melendy of Rockland, the House voted to Adhere.

CONSENT CALENDAR

First Day

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

(S.P. 730) (L.D. 1929) Bill "An Act to Amend the Counseling Licensing Laws" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-640)

(S.P. 934) (L.D. 2365) Bill "An Act to Provide for the Licensing and Certification of Real Estate Appraisers and to Create a Board of Real Estate Appraisers" (EMERGENCY) Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-641)

(S.P. 909) (L.D. 2312) Bill "An Act to Establish the Office of Substance Abuse" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-639)

(S.P. 903) (L.D. 2297) Bill "An Act to Help Reduce the Incidence of Breast Cancer Mortality in the State" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-645)

(S.P. 926) (L.D. 2337) Bill "An Act Relating to Health Maintenance Organizations" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-644)

(S.P. 985) (L.D. 2448) Bill "An Act to Authorize Refuse Disposal Districts to Handle Partial Waste Streams from Member Municipalities" (EMERGENCY) Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-642)

There being no objections, under suspension of the rules, Consent Calendar Second Day notification was given, the Senate Papers were passed to be engrossed as amended in concurrence.

The following item appearing on Supplement No. 19 was taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

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

(H.P. 1732) (L.D. 2391) Bill "An Act to Provide for Immediate Income Withholding and Periodic Review and Adjustment of Child Support Awards in Support Enforcement Cases of the Department of Human Services, to Provide an Expedited Process for the Commencement of Paternity Actions and to Provide for a Trial Preference for Paternity Actions" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1088)

There being no objections, under suspension of the rules, Consent Calendar Second Day notification was given, the Bill 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.

The following item appearing on Supplement No. 18 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-653) on Bill "An Act to Authorize Franklin County to Acquire a Parcel of Land in Coburn Gore" (EMERGENCY) (S.P. 969) (L.D. 2436)

Signed:

Senators: MATTHEWS of Kennebec
BALDACCI of Penobscot
DILLENBACK of Cumberland
Representatives: BEGLEY of Waldoboro
JALBERT of Lisbon
PAUL of Sanford
MURPHY of Berwick
TUPPER of Orrington
STEVENS of Sabattus

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

Signed:

Representatives: PRIEST of Brunswick
PLOURDE of Biddeford
LAWRENCE of Kittery

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-653).

Reports were read.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: I move that the House accept the Minority "Ought Not to Pass" Report.

My apologies for bringing such a split report to you. This is a bill which consumed our committee on Thursday night, the bill was referred to us that day and we dealt with it that night. The bill deals with the Coburn Gore dump. The Coburn Gore dump is located in Coburn Gore which is an unorganized territory in Franklin County. This dump is on land which is now owned by the VanVleck family and they have a partnership which is called the Coburn Gore Partnership.

The partnership has let the people of Coburn Gore use land in their area for a number of years, since 1969 at least, to establish a dump for those people who live in Coburn Gore. The VanVleck's have been advised by their attorney that they may be liable under federal and state laws if the dump releases pollution and the pollution harms anyone. They, therefore, want to transfer ownership of the dump to Franklin County. They also want to transfer potential liability involved in the dump to Franklin County and the taxpayers of Franklin County. They have offered to transfer the property provided that the transfer takes place before May of 1990. It appears that the county commissioners desire to accept the transfer on the theory that the VanVleck's did a favor to the people of Coburn Gore for letting them use that area as a dump.

The District Attorney who is responsible for Franklin County has said that any such transfer would have to be approved by the legislature and that is why the bill is here.

The question that you might ask yourself is, what is the problem with the transfer? Frankly, the problem is this, no one knows what is in the dump. The DEP appeared before us and they were unable to say what was in the dump. The attorney for the VanVleck's appeared before us and they too were unable to say what was in the dump. The Commissioners of Franklin County cannot say what is in the dump. It may in fact be true that what is in the dump is household garbage, in which case transfer of the dump and liability to the people of Franklin

County would not be of great concern. On the other hand, if in fact there is something which is hazardous in that dump, transfer of all of the liability to Franklin County and the Franklin County taxpayers could be a matter of extremely great concern.

We were told that the county which had this dump run under a yearly lease with the VanVleck's had a part-time watchman who ran the dump a number of hours during the day but he or she certainly wasn't there during the entire 24 hours. The dump itself is isolated enough so it certainly is not surrounded by any sort of secure fencing or barriers.

What needs to be done here, it seemed to the minority of the committee, was that there should be a sampling done of the dump, that someone should go in there and take core samplings so we could find out if there are hazardous materials in that dump or if it is simply household rubbish. Unfortunately, that was rejected by the proponents of the bill and it was rejected because the VanVleck's wished to have this transfer take place by May of 1990 and do not wish to extend the lease any further with Franklin County because they are concerned with their own liability.

Obviously, their concern is legitimate and I don't blame them for trying to transfer all of the liability to Franklin County. It seems to me that as legislators we must ask ourselves whether in fact we should put our stamp of approval on such a transfer when we don't know what is in that dump, when the VanVleck's don't know what is in that dump and when the people of Franklin County don't know what is in that dump.

If there is a hazardous material there, if in fact there is motor oil there, if in fact there are hazardous products, if in fact it has been used to dump things like asbestos, then Franklin County could be assuming a tremendous liability. I, and the other members of the Minority, felt that we could not agree with that until we knew what was in that dump.

For that reason, I urge you to accept the "Ought Not to Pass" Report.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: When this came to us, and after deliberations in committee, some people got the impression we are talking about the Lewiston/Auburn dump or talking about Portland. Has anybody in this chamber been to Coburn Gore? I did once, you leave Stratton and I think it is 40 some odd miles towards the Canadian border. I kept driving and driving, I thought surely I would fall off like Columbus thought when he came over to his new world. When I got to Coburn Gore, the population of Coburn Gore is 14 people. The dump is probably half an acre and I can't imagine anyone driving to Coburn Gore up in Franklin County on the Canadian border because, if you close the custom house up there, I think you would probably lose half the population. Nobody is going to drive up for hazardous waste, there are no manufacturing plants up there. All of the bottles they have are probably returnable. Probably the waste from the table is fed to the dog or cat and they probably end up with newspapers, that's all.

This is way up in Coburn Gore, Maine, population 14. One acre at the most is what is being used now. I couldn't believe that there was so much fuss made over a dump, a municipal dump, which the county commissioners decided because it is an unorganized township that they wanted to allow the people to do it -- it is just something that grew. The VanVleck family owns property all over the place and they want to be good neighbors so they said, go ahead start

putting your stuff in there, household waste, that is all you have got in there. All you have is houses up there, there are no manufacturing plants. If anybody is going to drive up with a load of hazardous waste all the way to Coburn Gore, God bless them, they have got more courage than I have.

This is just a matter that the county commissioners agreed, the VanVleck's are willing to give it to the county, those people up there have got to have a place to dump their household waste. I don't expect they are going to drive down to Farmington, which is roughly 80 miles. To me, I can't believe that such a small item would generate so much controversy.

The gentleman from the DEP was there, he doesn't know what it is. It couldn't be anything too important if he doesn't know what is in there. They said they would go in if they had to. The majority of the committee said, go ahead and do it. They were supported by the gentleman from Kingfield.

One thing that disturbs me is that there was a controversy among the Franklin County Delegation because some people were not notified, that is not good. If something needs to be done -- regardless when that someone overlooked the fact that certain ones weren't notified -- this is a matter for the people up in Coburn Gore who still want to maintain a place where they can take their household waste and do it and meet the laws.

I would ask that you not support the Minority Report and support the Majority Report.

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 again, as usual, please bear with me.

Late in the session, I received word from one of our county commissioners that there was a bill already submitted through the Legislative Council about this dump, this land, and he hadn't even been contacted on it. So, not all the county commissioners are aware of what is going on here.

I think the good Representative from Lisbon hit the nail right on the head when he said it is way up there, no one knows, so who should care. Ladies and gentlemen of the House, I think that is why we are here, I think that is why we have to okay such a transfer. Under already existing solid waste legislation, the county has to assume all responsibility for what it put in there while it leased the land, it wasn't given by the VanVleck's, it was leased. The county has to assume whatever they put in, they assume that liability. Why should we assume the liability pre-'69 before the lease or once the lease ceases? No sovereign immunity should be given for we don't know what is in there. If in fact, like the good Representative said, nothing is in there, we will drill test wells, the county will have to assume the cost, but we will find out what is going on. Then we can come back in the beginning of the 115th or they can come back in and do this transfer the way it should have been done in the first place.

I think any of you, in all your county delegations you partake in on any land transfer, you have facts and figures for what is going on, our delegation never got any of that. All of a sudden it was here, we weren't given the common courtesy -- our chairman wasn't even given the common courtesy of a phone call as to why, so immediately that raised a lot of flags as to what is going on. I have to ask myself, what is in the dump at Coburn Gore that all of a sudden somebody has until May 1 to dump it on us? No, the county has to already assume what

responsibility it had, whatever it put in there. The law already says that. I just want to make sure for the people who don't live in Coburn Gore that the cost that they pick up are warranted.

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: I'm almost out of Tums and I have eaten my last cough drop. I stand here embarrassed, embarrassed that I have to fight for the Coburn Gore dump. Yes, it is in Coburn Gore. I know where it is, there are 14 people there, at least seven of them are of Canadian extraction and they are good friends of mine. And yes, they dump in the dump. I can tell you what is in the dump, garbage, garbage is in that dump, it is in the dump instead of the woods and streams.

As far as being notified of this little episode, I was the last to know. I have represented that area 14 years, I have been in the delegation longer than anyone else. I was the last to know. I should be the one that was miffed.

The Chair of the delegation told me about it right in the stairwell. Representative Bailey and I were there. He said, "Should we have a meeting of the delegation?" Representative Bailey said to him (and I was there) quote, "You are the Chair of the delegation, if you want a meeting, it is up to you."

The land was leased at no cost. This family was doing a service, a service to the public. This is a family that went up there to Coburn Gore and used horses to lumber with. They love the land. Right now they would like to sell the land to the state at below value.

I am tired and I didn't get up on the other bill but this one here -- like I say, I just stand here embarrassed that I have to get up and fight for something like this.

The county is liable now, I checked with the legal advice, you can bore the thing until hell freezes over and the county is still liable. I hope that you will vote against the Minority Report.

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

Representative TRACY: Mr. Speaker, Ladies and Gentlemen of the House: I am the Franklin County Chair and I would like to ask Mr. Dexter if he wasn't informed of anything, why his name was on the bill that was in front of the Legislative Council after I was informed that it was in there, then I went out and you asked me if I could not direct this to the Energy and Natural Resource Committee because I was the Chairman of Franklin County Delegation?

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

Representative DEXTER: Mr. Speaker, Men and Women of the House: Yes, I was sitting right here and a Page brought it to me and said, "Please sign this."

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose two questions, I guess, to the Chair of the Legal Affairs Committee.

One, has a vote of the county been taken on this issue?

The second would be, if there has not been a vote taken, can the county assume ownership of this without a vote of the county?

The SPEAKER: Representative Strout of Corinth has posed a couple of questions through the Chair to Representative Priest of Brunswick, who may respond if he so desires.

The Chair recognizes that Representative.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: My understanding is that a vote has not been taken of the people of the county although that has been added into the bill in the other report.

As to rather that transfer can legitimately take place without a vote of the county, I presume that it can. It has been represented to us that it can. Beyond that, I am unable to answer you, but my understanding is that it could take place were it to receive proper legislative approval.

The question of liability of the county has been brought up, it is true that the county does have some liability. If in fact there is liability under the Maine Tort Claims Act, that liability is limited to \$300,000. If, however, there is an agreement with the VanVleck's to indemnify them for any costs, that liability changes from the \$300,000 under the Maine Tort Claims Act to unlimited liability for reimbursing the VanVleck's, at least to the limits of whatever insurance they might have, which I would hope would be a fair amount if there are problems up there. We all hope there are not problems but the difficulty at this point is we simply don't know.

The SPEAKER: The Chair recognizes the Representative from Farmington, Representative Bailey.

Representative BAILEY: Mr. Speaker, Ladies and Gentlemen of the House: When I first heard of this issue, I didn't realize it was going to be so involved. I can understand the concern about hazardous waste, we have talked about it on the House floor here many times and we will continue to do so. I think that we are looking at a very small dump, certainly compared to the ones we have a great deal of difficulty with, plus the fact that this dump is very close to a border crossing with customs and officials there. I doubt very much if you are going to have drums of toxic waste and asbestos and so forth without perhaps them knowing it. Even so, the area is so small at least according to my discussions with people that you would see land movement even though it was years ago and so forth, so it doesn't seem to me that it is going to take all this equipment and all this work to check out a small dump and I think that is what our concern is. I share that concern, I think we ought to be careful but I think that we are attacking this from a broad perspective when actually it is a lot smaller in nature.

As a matter of fact, if the people were around -- and I have been up there many times, it is good fishing not far from there, but I have been up there many times and if it was back in the days when people were digging for bottles, I think they could probably get through that pretty quick and probably find some bottles that were worth some money because there are people coming through there from other areas.

So, I would hope that you would not support the Minority "Ought Not to Pass" Report and support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: This particular issue raises a question in my mind and I just want to bring this to your attention. There is a possibility that in the capacity of being county commissioners back at the time when this land was first designated as a dump for the citizens of Coburn Gore, those commissioners were acting in the capacity of being similar to the selectmen of Coburn Gore, like selectmen of the organized towns. With that possibility, and I really feel that is the way it

was, I question whether the inhabitants of Franklin County overall would be liable for anything in this particular case. I just want to bring that to your attention. It may be. I brought this out at the hearing.

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

Representative BEGLEY: Mr. Speaker, Men and Women of the House: As a member of the Committee, I felt strongly that this is a bill that deals with the issue of fairness. A family, 20 years ago as you have already been told, trying to be good neighbors agreed to let citizens of Coburn Gore, an unorganized territory, use a piece of their land for a dump. Representative Dexter has told you tonight, also Representative Jalbert, that it is not a very big dump at that. This family does not even live in the area. I don't think that has been brought out by anybody at this point. Because of the possibility of being held liable in the future, they have been advised strongly to turn the land over to the county at this time.

We were told at the hearing that the county commissioners, and it says so right in the bill, are very interested and would like to have that piece of land. They are acting, as Representative Look has just told you, as the municipal officers for Coburn Gore because it is an unorganized territory. That is why they are involved in it at this point and they have expressed a strong desire to accept the transfer property because they can continue to use it for a dump for the Coburn Gore citizens.

The amendment that was put on in the Senate which many of you would have on your desk says that the Franklin County is authorized to purchase the land described in the Bill located in Coburn Gore, including the Coburn Gore landfill and to enter a release and indemnification agreement regarding the landfill on the condition that the county first hold a public hearing on the proposed acquisition. This was talked about and those of us who are on the Majority Report felt that that was an important step that should be taken at this time.

I believe it is only fair to allow this land transfer to take place and I encourage you strongly to vote against the Minority Report so that we can accept the Majority Report as amended.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I usually don't speak on bills that don't affect my area or the committees I serve on but Energy and Natural Resources Committee did have the hearing on this bill before it was re-referred to the Committee on Legal Affairs.

The bill concerned me greatly especially the provision of the bill that would waive the sovereign immunity of Franklin County. I don't think that is a small step for any county to take. I think it is a very serious step and I would certainly hope that my county commissioners in Cumberland County would never come to the legislature and ask to do that. It puts all the taxpayers of whatever county it is at considerable risk of being sued. So, this isn't a simple bill, and it is a very dangerous bill. I think it is very poorly drafted and, although it might be a good idea for the county to take over this particular dump, this bill has a lot of problems and I don't think they have been solved. I frankly feel pretty uncomfortable putting the taxpayers of Franklin County, who I don't happen to represent, but they are citizens of the state, at the risk of all these lawsuits unnecessarily.

I would urge you to vote against this bill.

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

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: The good Representative from Farmington said it well, he said we have to be careful. The good Representative from Freeport made the statement of the sovereign immunity and that just scares me. I guess I need some time and I think if this was coming to any county they would.

Mr. Speaker, I respectfully ask for the yeas and nays.

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

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

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: Most of this has been brought out here and it has been brought out very clearly. First of all, the 20 year lease that the VanVleck's gave to Coburn Gore was just a lease, they received no money for it. They were just good citizens and let the people use this dump. I don't feel as though there is any hazardous material in this dump. Even if there was, I firmly believe that in a court of law that it would fall back on the county anyway because these people received no money for this whatsoever. It was just an agreement. Now it has come to the point where the lease is up and they are not going to renew the lease because of the problems and the liability. I certainly don't blame them, I would not be a good citizen of the State of Maine or any community and do that with my property.

I think this is a fairness bill. These people should not be responsible and I don't believe they are responsible for anything that was dumped in there. They just gave their consent for the town to use this dump. I really don't know where the people will go for a dump if this dump is closed on May 1st. I guess it is 40 miles to the next town that Representative Jalbert spoke about because I certainly never heard of Coburn Gore until last Thursday night and it was a surprise to me. I think in all fairness we should pass this bill so that the County Commissioners can take this land and the people there can use it as a dump. It is just a small, 14 people that live there, it certainly is no city dump.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: This is merely enabling statute. There is nothing in here that forces the county commissioners to accept anything. This will enable them to come to some agreement with any company, anybody that owns this, and an agreement with the DEP and any of those things. If it turns out that the county commissioners feel it is not a good deal, then they don't have to go through with it.

What has happened, as the good gentlelady from Berwick said, what happens after May 1st to these people in Coburn Gore? We do owe them something, give them a chance to sit down and know where they are going and the county commissioners will come back and do what they have to do. They are just being told here is what you may do, we are not telling anybody what you shall do, here is what you may do.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Men and Women of the House: I will speak very briefly. My major concern with this bill was the promptness that it was brought in with very, very little information and the major question of transferring liability to the taxpayers of Franklin County and essentially the State of Maine. That was my major concern and that is why I signed on the Minority in support. I hope you will support the Minority "Ought Not to Pass" Report.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Priest of Brunswick that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 224

YEA - Adams, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cathcart, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, P.; Farnsworth, Graham, Gwadosky, Handy, Heeschen, Hoglund, Holt, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Mahany, Manning, Mayo, McGowan, McHenry, Mills, Mitchell, Nadeau, G. R.; O'Dea, Oliver, Paradis, J.; Paradis, P.; Pineau, Plourde, Pouliot, Priest, Rand, Rolde, Rotondi, Ruhlin, Rydell, Stevens, P.; Strout, D.; Swazey, Tardy, Tracy.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Cashman, Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Hale, Hanley, Hastings, Hepburn, Hichborn, Hickey, Higgins, Hussey, Hutchins, Jacques, Jalbert, Lebowitz, Libby, Look, Lord, Luther, MacBride, Macomber, Marsano, Marsh, Martin, H.; McPherson, McSweeney, Melendy, Merrill, Michaud, Moholland, Murphy, Nadeau, G. G.; Norton, O'Gara, Paradis, E.; Parent, Paul, Pederson, Pendleton, Pines, Reed, Richards, Ridley, Seavey, Simpson, Skoglund, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Tamaro, Telow, Townsend, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

ABSENT - Allen, Chonko, Dutremble, L.; Jackson, LaPointe, Larrivee, Marston, McCormick, McKeen, Nutting, Richard, Sheltra, Sherburne, The Speaker.

Yes, 60; No, 77; Absent, 14; Paired, 0; Excused, 0.

60 having voted in the affirmative, 77 in the negative, with 14 being absent, the motion did not prevail.

Subsequently, the House accepted the Majority "Ought to Pass" Report, the Bill read once.

Committee Amendment "A" (S-653) 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.

The following item appearing on Supplement No. 23 was 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. 1641) (L.D. 2274) Bill "An Act to Ensure Continuity of Health Insurance Coverage" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1090)

There being no objections, under suspension of the rules, Consent Calendar Second Day notification was given, the Bill was passed to be engrossed as amended and sent up for concurrence.

The following item appearing on Supplement No. 25 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE
Divided Report

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act Regarding the Administration of the Maine Children's Trust Fund" (S.P. 957) (L.D. 2421)

Signed:
Senators: TITCOMB of Cumberland
RANDALL of Washington
Representatives: CATHCART of Orono
CLARK of Brunswick
PENDLETON of Scarborough
BURKE of Vassalboro
PEDERSON of Bangor
BOUTILIER of Lewiston
ROLDE of York
HEPBURN of Skowhegan

Minority Report of the same Committee Reporting "Ought to Pass" as amended by Committee Amendment "A" (S-643) on same Bill.

Signed:
Senator: GAUVREAU of Androscoggin
Representatives: DELLERT of Gardiner
MANNING of Portland

Came from the Senate with the Minority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-643).

Reports were read.

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

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

This particular Minority Report is trying to address the problem that was brought to us by the sponsors of the bill indicating that the Maine Children's Trust Fund has experienced less money than they have in the past because there are less people checking off for the Maine Children's Trust Fund. What this amendment tries to do is it tries to address the fact that with less money we need to look at this trust fund a little differently.

The committee had a good hearing on it and some on the committee, the Minority, felt it was time to maybe take a look at the way it was administrated. The facts and figures that we got dealing with the Maine Children's Trust Fund indicated that the Maine Children's Trust Fund received approximately \$89,000 in 1989 and spent approximately \$71,000 of that in administrative costs either by salaries, by a public relations firm or by rent that they owed another agency.

In looking at that and looking at the fact that it took \$71,000 to raise \$89,000, some of us felt that maybe we ought to take a look at this and try to get more money out in the community which is one of the reasons this trust fund was started and try to address those particular problems that are out there in another way. One of the ways that we decided to come up with is to take and move the trust fund into the Maine Community Foundation, which is located in Ellsworth, Maine. The Maine Community Foundation has many different foundations within it and that Board of Directors disburses many different foundation monies throughout the whole State of Maine,

approximately a half a million dollars every year. The cost of administrating the Maine Children's Trust Fund with the Maine Community Foundation would be ten percent or less. The Joan Whitney & Charles Shipman Payson Charitable Foundation, which is much higher than the Maine Children's Trust Fund, is charged approximately ten percent. The Maine Children's Trust Fund would not exceed the ten percent according to this bill. In talking to them, it would no where near come towards the ten percent.

We felt that if they did it, they would be able to administer that cost at a much cheaper rate than what the Children's Trust Fund is presently being administrated by.

There were some concerns on the committee that part of the job of the Maine Children's Trust Fund was to actually go out and talk about child abuse and neglect. One of the ways we thought (at least the Minority thought) about dealing with that was trying to get the 16 Child Abuse and Neglect Councils a little more money to deal with child abuse and neglect. If we want to have somebody talking about child abuse and neglect, then let's put it in the Human Services budget and let's budget it. If we really want to address that, then let's upfront the money in the budget and not put it in the Children's Trust Fund. It is a way, I think, of getting more money out into the communities with less staff. I think, at least in my own county, the Child Abuse and Neglect Council has done a tremendous job, they have worked with other counties in trying to develop other programs. I think if we are under tight financial constraints, as we are now, that we ought to be looking at new ways of administrating this particular fund.

I certainly don't want to be putting somebody out of a job but we need to take a look at what is going to happen if it gets to the point where the monies that that particular foundation raises equals the administrative costs and is it really doing the job that the public thinks they are getting for their money when they check it off? That is something that I think we really need to take a look at.

In my opinion, the only way this fund has survived since it was started is through the generosity of the Department of Human Services giving it a block grant of approximately \$45,000 for the last couple of years. Without that money, I don't know what we would have ended up having with the Children's Trust Fund. I don't think we would have had much money out into the communities as people thought monies would be out in the communities when they checked off their check off place.

I don't want to kill a program that I think has worked well. What I want to do is redefine how it is working, try to get more money out in the community and hopefully, as the executive director said on television a couple of weeks ago, he is having less check-offs, if that is the case, then maybe we need to take a look at this program.

I know that the committee, the majority of the people are sincere in what they are trying to do, they want to keep it on for a few more years and take a look at it. Quite frankly, looking at \$89,000 last year and spending out \$71,000 of that, is that what the public really bought when they checked off for the Children's Trust Fund? I don't think so. That is why this bill or this Minority Report is trying to incorporate the Maine Community Foundation with the Maine Children's Trust Fund. How it would work is the Maine Children's Trust Fund board would stay on board, they would still be appointed by the Governor, they would do the actual recommendations of the grants, it would be recommended at that particular

time to the Maine Community Foundation. The Maine Community Foundation likes this idea simply because they don't have to go out and do a lot of the work. That board can still stay intact, it would still have money to stay intact. It is just the fact that the Maine Community Foundation would run the Maine Children's Trust Fund.

One of the other things that made it better for me was the fact that with the Maine Community Foundation, these individual monies that were given to -- for instance maybe the YMCA here in Kennebec, they might be able to draw down on the Maine Community Foundation money as well as the Maine Children's Trust Fund money. They might be able to match them, they might be able to give them a little more out of their own monies. It is a way to get more monies out there to deal with children in need and children who are abused. That is one of the reasons why I, as a minority, and I think the other two members of the Minority Report, felt that we needed to take a look at this. We needed to really take a look at -- are we going to get the best dollar in this program? The only way to do that is to cut down on the administrative cost. If not, I venture to say that, under the tight budget constraints that everybody in the state is working on right now, that there will be less money coming in this year with the check-off and that the administrative costs could, quite frankly, meet what the actual budget brought in. I would hope you would go along with the Minority Report.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I hate to belabor this debate but I think it is an important issue and I do have some history in terms of this bill because the same type of bill or other versions of the bill have been in front of a committee that I have served on ever since I have been in this legislature.

The original bill, either enacted in 1983 or 1984, came before the State and Local Government Committee which was then the committee of jurisdiction for this particular item, the check-off. Then over the years, the past four years that I was on that committee, it was in front of us every year to get rid of the check-off. Then when I moved to the Human Resources Committee, the bill then changed its jurisdiction and came to that committee, so I have had it literally every single year since I have been in the legislature.

I have to say that irregardless of whether this is a good idea or a bad idea, we have to do something. We have to either let the check-off work and let the programs that are part of that system work or we have to get rid of the check-off. That is what this bill does. Don't be confused. This bill does not fine-tune the current process, it basically eliminates the program as we now know it. That is the choice you have, you either have the choice to have a children's check-off and let the executive director and the board do their community work or you don't have one. That is the issue.

I want to tell you that that particular program has worked very successfully with very small amounts of money. If we had other programs in the state work with the amount of funds that they have had to utilize and be as effective, this program would be lauded in every study we have ever had and every report that would come to our desk because they have done incredible work. They were charged (when the bill was originally established) to take money from the check-off in the tax form to try to utilize

federal monies whenever they could in terms of grants and block grants and other types of public and private foundation applications. They also do PR work in the community, to be a lead focus, have that person or have that board be sort of a clearing house of children abuse issues or neglect issues so that all these different groups that have very limited funds or limited ability and time can feel like there is some place where they can go where everyone is talking to that group of individuals or that executive director and they can coordinate what is happening statewide. That has happened. This past year -- although I am not directly in all of those things and some of the members of our committee are -- this past year I feel has been the most successful. I have heard great comments from all the individuals I have talked to around this state in reference to this program about how effective seminars or gatherings or round-table or discussions of various groups involved in the issues around children, how they felt that the Children's Advisory Committee and this particular check-off and the board accompanying it worked with them to help them develop a grant or helped them develop an application for public or private foundation or made an event that they had in their own area work more effectively. That is what the charge of this program was.

The individuals who have been sponsors of the bill to eliminate the check-off or eliminate or create great barriers to the administrative use of this bill, except for one, their ultimate goal has been to eliminate the program. I say except one because last year the Human Resources Committee dealt with a bill from Representative Rolde. He will describe the details and the thoughts he had behind that bill but that bill was passed by the Human Resources Committee and by this legislature and it sits on the Appropriations Table as we speak. It does do some things in terms of administrative costs without eliminating the executive director's type of focus and the ability for that person and the board to interact with community agencies, like this bill does. We had a version in terms of dealing with the Community Development Foundation that would have allowed the children's check-off and the Children's Trust Fund to work closer with the Community Development Foundation. We had an amendment which would make sure that they would go out and say what do we need to do so we can bring the positive to both our groups, the Children's Trust Fund with the executive director and the work in the community and the Community Development Foundation with their lower administrative costs and their access to more dollars. How can we make the best of those two work together?

We had an amendment which would do that. The sponsor requested that the committee not allow that amendment to occur. She wanted an "Ought Not to Pass" and an "Ought to Pass." We now have an amended version which the committee did not discuss but that was what the sponsor wanted.

I would ask this body that when you consider this action that you understand that you have a clear choice. You can have the Children's Trust Fund and have the positives of that program or you will not have the Children's Trust Fund and the positives of that program. We are not just fine-tuning this issue today.

I would ask, when the vote be taken, it be taken by the yeas and nays and I hope you reject the pending motion.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I know it is late and this is a confusing subject. Essentially, I was skeptical of the Children's Trust Fund when it was first put in because I foresaw this kind of a problem, that you would not have enough money to run a program and can you run a program without an executive director? That is exactly what the situation is here. Because the trust fund has not brought in enough money to really have a sense of having an executive director running a program, it has been seen that all the money has gone to this one executive director who has done an extremely good job. Therefore, people have said, we have got to get rid of this executive director and use this money for direct services. By transferring the administrative overhead of this program to the Maine Community Foundation, you actually will have no executive director. They will be able to handle the actual paper work but you will have nobody going out into the field to promote programs to work with people who ask for grants. That is the question that faces you right now. If that is what you want and you want to break up whatever other money comes in and send it to local child abuse and neglect councils, I don't know the amount, a couple of thousand dollars will go to each one, that is what the Minority Report does. If you want to keep the program intact -- what Representative Boutilier talked about was a grander idea that I had which was for a family development foundation which would have enough money but which would also need an executive director, need somebody to do outreach.

Perhaps in the future when things are better, we can move to that, but I think that is where the committee is split, between keeping the program the way it is or essentially dismantling it. That is the question that faces you tonight.

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

Representative DELLERT: Mr. Speaker, Men and Women of the House: Our committee all felt that the Children's Trust Fund had done a great deal of good for the communities that they worked in but I think we were all appalled and that the public would be too if they knew the amount of money that went into the administration.

I hope that you will vote for the Minority Report so that we can do the most good for the most children in our state.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: For me, I think the basic issue in this bill is, what do we mean by prevention? If we only mean the small grants that go to our local communities, if that is what you mean when you talk about prevention, then you should support the Minority Report. However, if you believe that prevention is far more than that, that prevention means being a statewide presence, that prevention means being at conferences, at workshops, both locally and regionally as well as statewide, if by prevention you mean that someone is always there reminding people to think about prevention, then you need to support the Majority Report.

I have to disagree with my colleague from Gardiner, Representative Dellert, I was not appalled at the amount of money. As a matter of fact, I think we are getting a darn good deal when I look at all the things the current executive director does on the salary that we pay him.

I think, as my colleagues have pointed out, your choices are clear tonight, the majority of the

committee believes that the Children's Trust Fund needs to continue to exist the way it exists. We believe that a 16 person board cannot function very effectively without an executive director. Think how many boards you serve on and how well they operate if they don't have an executive director to provide some day-to-day operations, some day-to-day leadership. That is the issue here. The issue is, do you want a few more thousand dollar grants to go to the community or do you want that statewide presence? If you want the statewide presence, I would urge you to vote against the prevailing motion.

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 Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The question has come up about the Child Abuse and Neglect Council. It sounds like the Child Abuse and Neglect Councils aren't doing their job and if that is the case, then I would suggest to the Appropriations Committee that you take a hard look at them and defund them. If memory serves me right, most of them are getting money right out of the General Fund. If they are not doing their job about child abuse and neglect and children's issues, then let's take a look at it and say, let's put that money in the Children's Trust Fund and maybe we would get more money out of it.

I talked to somebody the other day in Portland who told me that the Child Abuse and Neglect Council in two communities in the state just got a pretty good grant to help deal with child abuse and neglect. The Child Abuse and Neglect Councils are a creature, I think, of the legislature. On one hand we are saying, nobody is doing it. Are we saying that until the Maine Children's Trust Fund came along that nobody was talking about child abuse and neglect? I don't think so. I think the Child Abuse and Neglect Councils were out there. I know the one in Portland or in Cumberland County -- I get a lot of information from them, I get calls from them, I think they are doing a pretty good job.

1989 -- total check-offs \$89,062; other donations, \$2,225; total interest \$9,900, subtotal of \$101,216. Federal grant of \$65,000. If it wasn't for the federal grant, this program would not be in existence. If that is the case, I say if we really want to do this, tell the Appropriations Committee, my good friend and colleague from Presque Isle as I look at him, tell him, tell Representative Foss, Representative Foster, Representative Carter that we want to have somebody in the budget going statewide, as a state employee, dealing with child abuse and neglect.

This program, if we do not get additional dollars and the Department of Human Services doesn't give them \$65,000 like they did last year -- I am not quite sure where the program is going to be a year from now. That is the only thing that I am trying to do, trying to make the program work.

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

ROLL CALL NO. 225

YEA - Adams, Aikman, Aliberti, Anthony, Begley, Bell, Butland, Carroll, J.; Carter, Coles, Curran, Dellert, DiPietro, Donald, Dore, Farnum, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Higgins, Hutchins, Lebowitz, Look, MacBride, Manning, Marsano, Marsh, Martin, H.; Merrill, Nadeau, G. G.; Nutting, O'Dea, Paradis, E.; Paradis, J.; Paul, Pines, Plourde, Pouliot, Reed, Richards, Ridley, Rydell, Simpson, Small, Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Telow, Tupper, Walker, Webster, M.; Wentworth, Whitcomb.

NAY - Anderson, Bailey, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Cashman, Cathcart, Clark, H.; Clark, M.; Conley, Constantine, Cote, Crowley, Daggett, Duffy, Erwin, P.; Farnsworth, Farren, Graham, Gurney, Gwadosky, Hale, Heeschen, Hepburn, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Libby, Lisnik, Lord, Luther, Macomber, Mahany, Mayo, McGowan, McHenry, McPherson, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Norton, O'Gara, Oliver, Paradis, P.; Parent, Pederson, Pendleton, Pineau, Priest, Rand, Rolde, Rotondi, Ruhlin, Skoglund, Strout, D.; Swazey, Tamaro, Townsend, Tracy.

ABSENT - Allen, Ault, Chonko, Dexter, Dutremble, L.; Gould, R. A.; Handy, Jackson, LaPointe, Larrivee, Marston, McCormick, McKeen, McSweeney, Richard, Seavey, Sheltra, Sherburne, Tardy, The Speaker.

Yes, 58; No, 73; Absent, 20; Paired, 0; Excused, 0.

58 having voted in the affirmative, 73 in the negative, with 20 being absent, the motion did not prevail.

Subsequently, the Majority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

The following item appearing on Supplement No. 26 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Ought to Pass Pursuant to Joint Order (S.P. 974)

Report of the Committee on Education reporting "Ought to Pass" Pursuant to Joint Order (S.P. 974) on Resolve, to Encourage the Study of the Nation's Founding and Related Documents by Maine Students (S.P. 1000) (L.D. 2472)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Senate Amendment "A" (S-659).

Report was read and accepted, the Resolve read once.

Senate Amendment "A" (S-659) was read by the Clerk and adopted.

Under suspension of the rules, the Resolve was read the second time and passed to be engrossed as amended in concurrence.

The following item appearing in Supplement No. 28 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

Resolve, Creating a Commission on Adult Sentencing (EMERGENCY) (H.P. 1801) (L.D. 2471) which was passed to be engrossed in the House on April 5, 1990.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-654) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 29 was 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. 988) (L.D. 2451) Bill "An Act to Ensure the Proper Payment of Property Tax Relief Funds" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-663)

There being no objections, under suspension of the rules, Consent Calendar Second Day notification was given, the Bill was passed to be engrossed as amended in concurrence.

The following items appearing on Supplement No. 17 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Resolve, to Authorize the Director of the Bureau of Public Lands to Sell a Parcel of Land to the Warren Sanitary District (S.P. 1003) (L.D. 2491)

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

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

Bill "An Act to Reduce Costs to County and Municipal Government by Delaying the Implementation Dates of Certain State Mandates" (S.P. 1004) (L.D. 2492)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Was referred to the Committee on State and Local Government in concurrence.

The following item appearing on Supplement No. 27 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

Bill "An Act Authorizing a General Fund Bond Issue in the Amount of \$20,250,000 for Construction, Planning, Purchasing and Renovation of Correctional Facilities" (H.P. 1799) (L.D. 2469) which was passed to be engrossed in the House on April 5, 1990.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-661) in non-concurrence.

The House voted to recede and concur.

On motion of Representative Gwadosky of Fairfield, having voted on the prevailing side, the House reconsidered its action whereby Bill "An Act to Improve Protective Services for Incapacitated and Dependent Adults" (H.P. 1754) (L.D. 2417) (C. "A" H-1041) was passed to be engrossed as amended by Committee Amendment "A" (H-1041); House Amendment "A" (H-1047) and House Amendment "B" (H-1080) thereto.

The same Representative moved that the House reconsider its action whereby House Amendment "A" (H-1047) was adopted.

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

Representative HANLEY: Mr. Speaker, Men and Women of the House: The amendment that the good Representative from Fairfield wishes to strip off this bill does one particular thing. It allows a judge in his or her discretion after going through a hearing for an involuntary commitment having received two reports from outside medical examiners,

regardless of the other facts that might surround the case, if the two outside medical examiners say the individual is not mentally ill or doesn't pose a likelihood of harm, then the judge's hands are tied and this individual must be released. They would be released regardless of six years of previous behavior or any time spent in a mental hospital.

What this bill does, it changes the judges direction from "shall" to "may." If the case is so egregious that the judge says the hour or two hours that these medical examiners spent reviewing this patient only tells me so much, the judge is not able to look at the six years of previous activity or ten years of previous activity and can only go on what these two outside medical examiners have stated.

This just wasn't an amendment put in very lightly. It is a very real case and as most of the legislation that gets put in front of this body is for a constituent.

Let me just give you a very quick background, two minutes. Most of the members of the committee received a ten page letter from this lady. Put yourself in the position as a parent, with a 15 year old daughter who had won a beauty contest at the county fair and ever since that time, she and her family have been hounded by an individual (this individual being a couple of years older at the time) who has sent knives and arrows. This family has gotten temporary restraining orders against the individual and yet the system is such that there is nothing that can be done. Then imagine sending your daughter off to college and having this individual track her down to Boston, harass her there, and still not be able to have anything done, except to have this individual put in Bridgewater State for a while but then released and follow her back to Maine on summer vacations. All the while, the criminal justice system is involved here, they have gotten temporary restraining orders, they have gotten protection from abuse orders, these have not been effective. The family is just about at their wits end.

What this bill would allow a judge to do in one of these hearings is to take into account the six years of this individual's abusive and harassing behavior while he is in a mental hospital for 24 hour periods at a time, months at a time, but right now, the judge's hands are tied. The two medical examiners come in, they examine this individual for an hour to three hours and, if they tell the judge this person is not mentally ill, the judge says, "I am sorry Mr. and Mrs. Jones but we are going to have to release this gentleman."

The last thing I would like to say is, the people I spoke to regarding this amendment, I talked to the Maine Civil Liberties Union, they do not oppose this amendment. I talked to the lobbyists for the Maine Psychologists and Psychiatrists, they checked with their people, they do not oppose this amendment. I checked with Commissioner Bob Glover of the Department of Mental Health and Dr. Jacobsohn, they gave their okay on this. Reid Shur, Executive Director of Mental Health, he gave his okay. I spoke to Judge Pease, Chief Judge of the District Court, he gave his okay. I checked with District Attorney David Crook. I checked with Dick Estabrook, who heads up the Maine Advocacy Service. I did my homework on this. This is a very narrow amendment. I realize that this idea is going to be very comprehensively studied next year.

Ladies and gentlemen of the House, next year is going to be too late if this family who has lived in the State of Maine for three generations is going to have to move out of the state, try and relocate

somewhere in the country because this individual can't be handled in the regular course of the justice system, something has to be done.

Like I said, this amendment has been checked with the people that I previously stated and this amendment was drafted by Rick Bergeron from the AG's office. These people are all aware of this case because it has been going on for six years. It has to stop somewhere and I hope it will stop here and I hope you will not vote to strip this amendment off.

Mr. Speaker, I request a roll call.

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

Representative PARADIS: Mr. Speaker, I move indefinite postponement of House Amendment "A."

The SPEAKER: The Chair would advise the Representative that the motion is out of order, the pending motion is the motion to reconsider.

Representative PARADIS: Mr. Speaker, Men and Women of the House: I favor that we reconsider our action whereby the House adopted House Amendment "A" to this legislation. I do so for several very important reasons.

The Representative has stated that he did indeed check with many different organizations and individuals regarding the legitimacy of this amendment, but when he checked with the Committee on Judiciary of which he is a member, the committee, 12 of us, objected to this particular amendment to the bill that we had before us. We did so for a number of reasons. Some of the most important were a similar bill that would have done something very similar was heard by the Human Resources Committee in the month of January. I was the sponsor of that bill on behalf of the Maine Psychiatric Association, it deals with involuntary commitment to our mental institutions. I accepted a "Leave to Withdraw" from the committee because the Maine Commission on Mental Health is studying this issue along with many others. I made a commitment to them that I would neither sponsor nor encourage any involuntary commitment bill without their full knowledge and without their cooperation.

At this late hour, I cannot in good conscience support an amendment to a committee bill that was unanimous without this amendment, nor can I support any other amendment by any other individual of this body to any bill to which I had given my word. They are not aware, fully aware of this bill. If they were, they would be in the hallways -- they are private individuals, the Maine Coalition for the Psychiatrically Disabled is one of them. They have every reason to be concerned about this bill because it wouldn't only address the concerns of the good Representative from Paris, it would address any concern of any individual in this state because it would be the law.

The worst thing that we can do and the easiest thing that we can do is to say we will not deal with mental health in the community, we are going to lump it on AMHI and BMHI and that is what this amendment will do. It will say, if there is someone who is mentally ill in the community, whether it be in Augusta or Biddeford or Coburn Gore, that we will not deal with that issue there locally and fund community mental health, we are going to send them to BMHI or AMHI.

I think there are a couple of issues that we have been debating about our state mental institutions, overcrowding and lack of adequate funding. We are not going to solve their problem by giving them people, people they don't want, if we don't start addressing community mental health. This bill does neither. It neither gives additional resources to

AMHI and BMHI nor does it fund community mental health, so I cannot support the amendment.

There was an amendment offered earlier this evening by another Representative to a committee bill and it is an attractive amendment. It has appeal, it solves a constituent problem but we have 150 other constituencies to deal with and I don't believe that it is right for us to consider this type of an amendment tonight or any other night while we are trying to cope with the problems in this state of adequate funding of our mental health resources.

If there was a fiscal note to this bill, to this amendment, it probably would read several million dollars because I think that is what the Human Resources Committee has been indicating that we are going to need if we are going to adequately address community mental health. This amendment does not address it. It just says, if you have two doctors who say that patient "X" should not go to the institution, you can now beg the judge to send that person to a mental institution. Even though we may think that system works perfectly, I have seen the system where you take someone off the street who comes in and is considered by two doctors in an emergency room setting, they go to a complaint justice, the complaint justice never sees that person at all, just signs the document that the doctors have submitted, the affidavit. Then the person is remanded to the mental health institution. That is not really solving any problem, it is giving to our AMHI doctors and staff and BMHI doctors and staff a lot more headaches.

I hope that you will vote to reconsider our action whereby the House adopted House Amendment "A."

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 reconsider its action whereby House Amendment "A" was adopted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 226

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffey, Erwin, P.; Farnsworth, Graham, Greenlaw, Gwadosky, Hale, Handy, Hastings, Heeschen, Hichborn, Hickey, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Luther, MacBride, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, Nadeau, G. G.; Nadeau, G. R.; O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richards, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Skoglund, Smith, Stevens, P.; Swazey, Tardy, Townsend, Tracy, Walker.

NAY - Aikman, Anderson, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Gurney, Hanley, Hepburn, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, Marsano, Marsh, Merrill, Mills, Moholland, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Seavey, Simpson, Small, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tammaro, Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Allen, Ault, Chonko, Dutremble, L.; Gould, R. A.; Jackson, LaPointe, Larrivee, Marston, McCormick, McKeen, McPherson, Nutting, Richard, Sheltra, Sherburne, The Speaker.

Yes, 85; No, 49; Absent, 17; Paired, 0; Excused, 0.

85 having voted in the affirmative, 49 in the negative, with 17 being absent, the motion to reconsider did prevail.

On motion of Representative Paradis of Augusta, House Amendment "A" was indefinitely postponed.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A"; and House Amendment "B" thereto and sent up for concurrence.

The Chair laid before the House the following matter: From the Committee on Judiciary Bill "An Act to Modify Joint and Several Liability in Medical Malpractice Actions" (H.P. 743) (L.D. 1026) (Received by the Clerk of the House on April 5, 1990 Pursuant to Joint Rule 13) which was tabled earlier in the day and later today assigned pending acceptance of the committee report.

Subsequently, the Bill was indefinitely postponed.

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: An Act to Establish the Department of Families and Children (H.P. 1199) (L.D. 1666) (H. "A" H-1008 to C. "C" H-820) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I had hoped to get up tonight and announce to you that an agreement had been made in order to amend this bill to the satisfaction of all. A serious attempt had been made in order to find a compromise in which to provide better services for our most vulnerable citizens in this state, the children and dysfunctional families of this state. A week has gone by where we have spent five, six, eight hours a day discussing these issues back and forth, face-to-face meetings, letters back and forth. It is a sad time. After 14 months of working on this piece of legislation that would provide services for families and children in this state to reduce the children's wall of bureaucracy, to help Maine families more effectively, and to produce savings for taxpayers, I felt that in fact we were going to be able to accomplish this.

I ask you for your support on enactment on this piece of legislation because it is well thought through. The amendment that is presently attached to this piece of legislation meets the concerns of the Governor as publicly and privately stated.

Those changes in this amendment that is presently on this bill dealt with the appointment of the commissioner, dealt with who was going to appoint the advisory committee and made very clear that even though this bill says that we will establish a Department of Children and Families that there was going to be a process that would allow acceptance or rejection at the end of that process. You have heard us say before that in this process that had been used in 1970 and '71 in order to establish 13 departments in this state that this was found acceptable by the

state government which in fact was represented in the executive branch by one party and in the legislative branch by another. It was a tried and true system. That is what we had offered. However, we have not been able to reach that agreement that we had hoped to.

I really have begun to question the sincerity of the Governor and his staff as to whether they really wanted to find some resolve. I feel badly having to say that but I really feel that in my heart. I am having difficulty even speaking about this because we are talking about the weakest citizens of our state, the abused children, the abandoned children, the children that are victims of substance abuse.

We have heard over and over again about the millions and thousands of dollars that have to be spent to resolve the problems of these hurt individuals in the future. Every time in this process that we felt that we had resolved the issues, another issue surfaced. It was like trying to hit a moving target.

I apologize for delaying you this long but this issue is a very, very important issue to the families of the State of Maine.

We have talked about this issue -- I am not the first person who has been involved. Since 1983, 1984 and before that there were even others who felt that the consolidation of Child Welfare Services in this state would be best, that unified services would be best, that the disjointed and scattered services that are now delivered to children and families through five different super agencies in this state, is not satisfactory.

Men and women of this House, I apologize to you again for repeating part of the discussion that you have heard before but we still believe that with the 1,107 employees of this state who presently provide services for children and families in trouble can do the job better in one single unified agency. We still believe that the expenditures of \$216 million plus is enough money to provide those services in a more efficient and effective manner. After all this effort, I am sorry that we were not able to come to some consensus and to provide for you tonight -- which many of you have heard me discuss with you in the hall with great optimism -- that we had found a solution. I believed truly that we had. All of those who have worked so diligently on this bill felt truly that we had. It is our fondest hope -- I ask you to support enactment of this bill. I want to thank you very much for your patience.

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

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong this much either but I would like to say once more that the reason that I am against this bill is because it takes children out of these five different divisions to work with them and I see no way that you can take children out of corrections or out of mental health or their own various degrees of treatment and try to do anything else with them. I think they have to be treated in their own division under a supervisor.

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. 227

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, P.; Farnsworth, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McGowan, McHenry, 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, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Skoglund, Smith, Stevens, P.; Swazey, Tamaro, Tardy, Townsend, Tracy, Walker, The Speaker.

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

ABSENT - Allen, Chonko, Dutremble, L.; Gould, R. A.; Jackson, LaPointe, Larrivee, Marston, McCormick, McKeen, McPherson, Nutting, Richard, Sheltra, Sherburne, Simpson.

Yes, 84; No, 51; Absent, 16; Paired, 0; Excused, 0.

84 having voted in the affirmative, 51 in the negative, with 16 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 31 was taken up out of order by unanimous consent:

ORDERS

On motion of Representative HEPBURN of Skowhegan, the following Joint Resolution: (H.P. 1818) (Cosponsor: Representative HANLEY of Paris)

JOINT RESOLUTION MAKING APPLICATION TO CONGRESS CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO LIMIT THE TERMS OF MEMBERS OF CONGRESS

WHEREAS, Congress was originally envisioned by the Founding Fathers as a nonpartisan, part-time legislative body, a model embraced by this State, whose members would take time from their normal businesses and professions to attend the congressional session for 4 to 5 months annually; and

WHEREAS, the press of the nation's business has forced the Congress to become a highly structured, professional and hierarchical institution rather than the informal, flexible gathering of citizens and legal intellectuals that obtained in the Federalist Era; and

WHEREAS, the power of incumbency has grown over time and, with the institution of electronic media,

to the point that the incumbent is nearly unassailable in any normal election; and

WHEREAS, the seniority system in the Congress, though recently reformed, still places disproportionate stress on electoral longevity; and

WHEREAS, innovative ideas and rejuvenated vigor are more likely to come to the Congress through new members fresh from association with the American people; and

WHEREAS, the most common complaint that the public makes about congressional service is that members of Congress spend more of their time running for office than attending to their duties; and

WHEREAS, the power of incumbency makes biennial congressional elections an expensive, exasperating and rather meaningless waste of the time and talents of each member of Congress; and

WHEREAS, to avoid the appearance of hypocrisy, the Legislature of this State recognizes the fairness of imposing limitations on the terms of its own members; and

WHEREAS, Article V of the Constitution of the United States, provides that an amendment to the Constitution may be proposed by Congress or, that on the application of the legislatures of 2/3 of the states, the Congress shall call a constitutional convention for the purpose of proposing an amendment that, in either case, becomes part of the Constitution when ratified by 3/4 of the several states; now, therefore, be it

RESOLVED: That the Congress of the United States is hereby petitioned to propose an amendment to the Constitution of the United States, for submission to the states for ratification, limiting the number of terms a person may serve in the United States House of Representatives to 6 terms and limiting the number of terms a person may serve in the United States Senate to 2 terms; and be it further

RESOLVED: That, alternatively, effective July 1, 1991, pursuant to Article V of the Constitution of the United States, the Legislature of the State of Maine makes application to the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States, for submission to the states for ratification, limiting the number of terms a person may serve in the United States House of Representatives to 6 terms and limiting the number of terms a person may serve in the United States Senate to 2 terms; and be it further

RESOLVED: That, if Congress proposes and submits to the states for ratification, within 60 days after the legislatures of 2/3 of the states have made application for that convention, an amendment to the Constitution of the United States similar in subject matter to that contained in this joint resolution, then this application for a convention is no longer of any force or effect; and be it further

RESOLVED: That this application and request be rescinded in the event that the convention is not limited to that specific and exclusive purpose; and be it further

RESOLVED: That this application by this Legislature constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least 2/3 of the legislatures of the several states have made application for a similar convention pursuant to Article V or the Congress has proposed an amendment to the Constitution of the United States similar in subject matter to that contained in this joint resolution; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of

State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to each member of the Maine Congressional Delegation and to the presiding officer of each house of each state legislature in the United States.

Was read.

The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Although the hour is late, I would like to give you a little bit of background on this Resolution and actually another similar Resolution that has been proposed by the gentleman from Canaan, Representative McGowan and myself.

Earlier this year, I think like the rest of you, I received a communication from a group in Washington called Americans to Limit Congressional Terms asking for my support for a proposed Constitutional Amendment to limit congressional terms. Needless to say, because of the situation that I am in as a candidate for federal office, I am interested in this idea. I communicated with these people in Washington asking specifically -- I was very interested in the idea of whether they meant consecutive terms and they responded to me. When I went to Washington, I visited with them. I think these people are quite sincere in their concern about the situation that has happened in Washington and the fact that something like 98 percent of incumbents in the federal government are elected.

At that time, they had told me they had received communications from several other members of this body, including the gentleman from Skowhegan, Representative Hepburn, and also the gentleman from Paris, Representative Hanley. Later on, Representative McGowan and I were approached by these two gentlemen who said, "Boy, have we got a deal for you!" They wanted me to join them in this particular Resolution that they were presenting. We were both intrigued and interested. However, after reading the Resolution, my problem with the Resolution the way it is written is not only the rather odd writing in some of it, but the fact that it calls for a Constitutional Convention. Although I am a Democrat, I am also a very staunch conservative as far as the Constitution of the United States is concerned. I am violently opposed to a Constitutional Convention even though it is in the Constitution that such a convention can be called. None has ever been called and none has ever been defined as to what would be brought up at such a Constitutional Convention. Therefore, I related my concerns to the two Republican gentlemen and said I would be happy to go along with them if they would remove that from the Resolution. They told me they preferred to keep it in. For that reason, Representative McGowan and I decided to put in our own Resolution embodying the same principles of a limitation on terms but to do it strictly through a constitutional amendment that would be passed by Congress and ratified by the states as every other amendment to the Constitution has been done.

I wanted to give you that background before you voted on this particular Resolution. I have to say that my own experience as a candidate for the U.S. Senate emphasizes the fact that tremendous advantages lie with incumbents in federal office. The basic problem, as we all know, is the tremendous amounts of money that it takes to run for federal office and the difficulty of being, for a challenger, able to raise that kind of money to challenge an incumbent.

I found that out certainly during my first exploratory trips to Washington. You might say that

the old rule of politics was that different groups would follow the rule of rewarding your friends and punishing your enemy. That sort of thing no longer happens. The question in Washington and all the special interests groups that give money to candidates is, can this person win? With incumbents now, the tradition is that they will try and raise as much money as they can during their incumbency to scare off any potential challengers. That is one of the reasons that 98 percent of incumbents get reelected in the federal government which is a higher percentage than the Supreme Soviet under Brezhnev.

I feel and have publicly stated my support of limitation of congressional terms. I have done that in response to a request that the Gannett Press made to all of our existing congressional representatives. The only one who responded was Congressman Brennan, who also takes that position. It is an awkward position in a sense for a Democrat to take because there are many, many more incumbent Democrats in Washington than there are Republicans. In fact, this organization is being run out of a Republican consultant's office, and generally the support for this are Republicans.

I think as a general principle, I would support it. I would also emphasize that a limitation on terms would not apply to our present incumbents, that they would be grandfathered. So, this is not something I am looking for that might be of some advantage to me in running for office.

I just wanted to give you that background before you vote on this particular Resolution because there will be another Resolution that will be offered which will have the same effect.

I would just make one final note that there will be an amendment asking us to also have this principle apply to this body. I think that is essentially comparing apples and pineapples, that the two things really do not relate particularly in terms of the amount of money that it takes to run down in Washington and the fact that this body has a one-third turnover almost every session and I think that is a separate question. Anyway, I wanted to give you that background before you voted.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Men and Women of the House: I just want to quickly go over a couple of points here. The mechanism mentioned in this Joint Resolution is an alternate method that was put into the original Constitution. The U.S. Congress can propose Constitutional Amendments or there is the other method that has never yet been used but it perhaps is tailor-made to the circumstance we have here.

As you know, a Constitutional Amendment takes a two-thirds vote of the U.S. House of Representatives and the U.S. Senate. Chances of them passing such an amendment that would limit their own terms is extremely unlikely so that is the reason for the call paragraph that we have in the Joint Resolution. Two states have specifically passed this this year. The movement has just really gotten going this year, Utah and South Dakota, I believe so far are the only two states that have done this, but I am sure many others will. It has been introduced in more than a dozen states. I would hope that you would go ahead and vote for the passage of this order.

I would request a roll call, Mr. Speaker.

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 adoption of Joint Resolution (H.P. 1818). In accordance with Joint Rule 35-A, Section 1, a two-thirds vote of those members present and voting is required. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 228

YEA - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Dellert, Dexter, Donald, Farren, Foss, Garland, Hanley, Hastings, Hepburn, Higgins, Lebowitz, Libby, MacBride, Marsano, Merrill, Norton, Parent, Pines, Reed, Richards, Seavey, Small, Stevenson, Strout, B.; Tupper, Webster, M.; Whitcomb.

NAY - Adams, Aliberti, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Curran, Daggett, DiPietro, Dore, Duffy, Erwin, P.; Farnsworth, Farnum, Foster, Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Ketover, Kilkelly, Lawrence, Lisnik, Look, Lord, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Plourde, Pouliot, Priest, Rand, Ridley, Rolde, Rotondi, Simpson, Skoglund, Smith, Stevens, A.; Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Wentworth, The Speaker.

ABSENT - Allen, Chonko, Dutremble, L.; Gould, R. A.; Hutchins, Jackson, Joseph, LaPointe, Larrivee, Marston, McCormick, McKeen, McPherson, Nutting, Richard, Ruhlín, Rydell, Sheltra, Sherburne, Walker.
Yes, 34; No, 97; Absent, 20; Paired, 0; Excused, 0.

34 having voted in the affirmative, 97 in the negative, with 20 being absent, the Joint Resolution was not adopted.

The Chair laid before the House the following matter: JOINT RESOLUTION Petitioning the Congress of the United States to Propose an Amendment to the Federal Constitution to Limit the Terms of Members of Congress (H.P. 1790) which was tabled earlier in the day and later today assigned pending adoption.

Representative Hanley of Paris offered House Amendment "B" (H-1087) and moved its adoption.

House Amendment "B" (H-1087) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, pursuant to House Rule 31, I would question the germaneness of this amendment.

The SPEAKER: The Chair would rule that House Amendment "B" (H-1087) is not germane. In light of the intent of the original amendment, the two do not match.

Subsequently, the Joint Resolution was adopted and sent up for concurrence.

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

(Off Record Remarks)

On motion of Representative O'Dea of Orono,
Adjourned until Friday, April 6, 1990, at ten
o'clock in the morning.

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

In Senate Chamber
Thursday
April 5, 1990

Senate called to Order by the President.

Prayer by the Honorable Thomas R. Perkins of Hancock.
HONORABLE THOMAS R. PERKINS: As we enter the
last days of the Session, could we share this prayer
together?

O mighty God, the Father, Son and Holy Spirit, be
above us to protect us, before us to guide us,
beneath us to bear us up and behind us to give us
strength and courage for every task today, tomorrow
and always. Amen.

Reading of the Journal of Thursday, March 29, 1990.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Related to the State Board of
Substance Abuse Counselors" (Emergency)

S.P. 699 L.D. 1837

(H "B" H-963 to C "A"
S-483; S "A" S-506)

In Senate, March 23, 1990, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (S-483) AS
AMENDED BY HOUSE AMENDMENT "B" (H-963) thereto, AND
SENATE AMENDMENT "A" (S-506), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-483) AS AMENDED
BY HOUSE AMENDMENT "C" (H-1039) thereto, AND SENATE
AMENDMENT "A" (S-506) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Facilitate the Admission and
Treatment of Involuntary Patients by Community-based
Mental Health Institutions"

H.P. 1336 L.D. 1853

(C "A" H-986)

In Senate, March 27, 1990, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (H-986), in
concurrence.

Comes from the House PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-986) AS AMENDED
BY HOUSE AMENDMENT "A" (H-1037) thereto, in
NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Adjust Commercial Motor Vehicle
Fees" (Emergency)

H.P. 1379 L.D. 1910

(C "A" H-948)

In Senate, March 26, 1990, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (H-948), in
concurrence.

Comes from the House PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-948) AS AMENDED
BY HOUSE AMENDMENT "A" (H-1036) thereto, in
NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.