

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 Fifteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
28th Legislative Day
Wednesday, March 18, 1992

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

Prayer by Reverend Philip Gage, American Baptist Missionary, Wayne.

The Journal of Tuesday, March 17, 1992, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

March 17, 1992

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 Adhered to its former action whereby it Indefinitely Postponed Bill "An Act Authorizing an Advisory Referendum on Whether the Congress of the United States Should Establish a National Health Insurance Program" (H.P. 1656) (L.D. 2333).

Sincerely,

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

Was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on Banking and Insurance reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-633) on Bill "An Act to Facilitate Self-insurance and Group Self-insurance under the Maine Workers' Compensation Act" (S.P. 877) (L.D. 2238)

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-638) thereto.

Report was read and accepted, the bill read once. Committee Amendment "A" (S-633) was read by the Clerk.

Senate Amendment "A" (S-638) to Committee Amendment "A" (S-633) was read by the Clerk and adopted.

Committee Amendment "A" (S-633) as amended by Senate Amendment "A" (S-638) thereto was adopted.

Under suspension of the rules, the Bill was read the second time and passed to be engrossed as amended

by Committee Amendment "A" (S-633) as amended by Senate Amendment "A" (S-638) thereto in concurrence.

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-624) on Bill "An Act to Enhance Medical and Social Services for Maine's Long-term Care Consumers" (S.P. 169) (L.D. 403)

Signed:

Senators: CONLEY of Cumberland
BOST of Penobscot
GILL of Cumberland

Representatives: MANNING of Portland
CLARK of Brunswick
GEAN of Alfred
TREAT of Gardiner
WENTWORTH of Arundel
SIMONDS of Cape Elizabeth

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

Signed:

Representatives: PENDLETON of Scarborough
PENDEXTER of Scarborough
DUPLESSIS of Old Town

Representative GOODRIDGE of Cornville - of the House - abstained.

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-624).

Reports were read.

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

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

Ladies and Gentlemen of the House: The most controversial portion of this bill happens to be a piece of legislation that was developed over a period of two years at the request of many legislators who have expressed some real problems with the low-cost drug and would like to expand on it or try to keep the costs down.

Over the summer, our staff did a study that indicated that we could (in this state) send out to bid the low-cost drug program on a mail order. In other words, what you see presently on television, we would try to have a mail order for that low-cost drug program to either bring down the cost or maybe enhance the program. We don't know just exactly what is going to happen but we feel, at least the majority, that this program certainly can benefit if it goes out on a mail order type of situation.

Let me repeat this, it is very important, I hope you all listen, this is a voluntary program. If you have a constituent right now who is in the low-cost drug program, that person can continue to have the

program at their local pharmacy. He can continue to go down to the local pharmacy with his low-cost drug program card and still use it. What we are saying is in the future maybe there are some people who would like to use a mail order drug program and they have that option. If they don't feel comfortable using the mail order, they can continue to use the low-cost drug program with their card at their local pharmacy. If not and they decide they want to go to mail order, they find it difficult to get out in the winter months, if they find it difficult to get to a pharmacy in many of the areas of this state and they want to use the mail order drug program, they can. Hopefully, it will benefit those individuals who want to use it and those individuals who don't want to use it will continue to use the card as they have in the last five, six or ten years. That is the only difference in this bill.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Men and Women of the House: I rise today to share with you my many concerns with this bill. This carryover bill was a major piece of legislation submitted last session. It has been whittled down to one major issue. The issue is to extend the present system of obtaining drugs by mail order to the low-income elderly population.

My first concern is that it is a poor medical practice to dispense drugs to the elderly population with little or no supervision. Sixty-one percent of people 65 to 85 years old dwelling in the community receive three or more different prescription drugs in a year. Thirty-seven percent get five or more and 19 percent get seven or more different drugs. Each year more than 9 million adverse drug reactions occur in older Americans. Unwanted side effects of drugs are seven times more common in the elderly than the younger adults and the likelihood of a drug/drug interaction occurring is increased in the geriatric patient. In 1985, an estimated 243,000 older adults, 60 and older, were hospitalized because of adverse reactions to medications they were taking before their hospitalization.

Secondly, it is my understanding that when this bill first came out it was an issue of access. Some people could not get to the drugstore to pick up their prescriptions so a mail order option was supposed to help these people but we already have a mail order option. During committee hearings, it was noted that pharmacists frequently mail prescriptions to people who cannot get to the drugstore and a spokesman for the Maine Pharmacy Association asked to have the statement printed on the DEL card to the effect that if you cannot get to your pharmacy, we will mail your prescription to you.

A patient profile is kept by pharmacists and it is presently required by Maine state statute. It would seem to me that the mail order system would definitely impair this practice.

I hope that you will share with me my concerns.

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

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: I don't know this bill in detail but I do have one piece of information that I would

like to share. The Business Legislation Committee dealt with the issue of mail order prescriptions and one of the pieces of information we have is that the mail order program has had less of an error rate than people going to pharmacies directly to get their prescriptions. I don't think that there is anymore danger in using mail order, the purpose of mail order is to allow us to bid this out and get the best price we can get for the service. Records are kept by the mail order companies just as your local pharmacist does so you don't have conflicting drugs, so that your instructions of what not to do while taking those drugs is made known to you. So, if it is a matter of safety in your mind, I would like you to put that to rest, it is a very safe system.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Men and Women of the House: In response to the good Representative from Houlton, Representative Graham, the issue is not whether the wrong drug is dispensed, the issue is that an elderly patient is on multiple medications and that there can be an interaction between the different medications, even across-the-counter drugs with drugs that they are receiving by mail in a supply of 90 days. Also, when you talk about interactions with the elderly, I would like to share one thing with you, a person that is on digitalis, which is a cardiac arrhythmic drug, if they had a 90 day supply, they may not realize that the upset stomach that they are having is a side effect of that drug because they are taking it for 90 days. By the time they realize that it is not the flu and they end up in the hospital, their heart arrhythmia has already developed.

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

Representative VIGUE: Mr. Speaker, I would like to pose a question through the Chair to the Representative from Portland, Representative Manning.

Is the mail order program going to be restricted to people in the State of Maine or are we going to end up like we did with the mail order drug program that we now have that is costing the State of Maine somewhere in the neighborhood of \$5 million to \$6 million a year?

The SPEAKER: Representative Vigue of Winslow has posed a question through the Chair to Representative Manning of Portland who may respond if he so desires.

The Chair recognizes that Representative.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: That was a question that our staff looked at during the summer months. Knowing that when the Maine Health Program, which is the program that most of us are under right now, went out to bid and the program went to an out-of-state firm, there was a lot of outcry from the pharmacies in the State of Maine. The committee was aware of that, so in this bill, the low-cost mail order drug program will only be for in-state pharmacies. We are hoping to keep the money in-state.

I would just like to talk a little more about this bill. First of all, the only issue that is of controversy happens to be this piece of legislation. A commission spent well over a year trying to develop some programs for the elderly. It was a bill that came out of our committee a couple of years ago sponsored by the good Representative from Houlton, Representative Graham, and was chaired by the good

Representative from Bar Harbor, Representative Constantine. It came to our committee about a year ago, we looked at it and we tried to deal with it. We had some questions about the mail order portion of it. We asked our staff to look at it over the summer. Our staff, which the pharmacy people and everyone who has been involved has admitted that it is probably one of the best studies that anybody has seen in a number of years around here. I want to commend our staff person, Paul Saucier, for that because he did a lot of research about this bill. He also researched the fact that we could keep this bill in-state.

One of the things we have got to realize is there are other portions of this bill that need to be passed or which should be passed and if you indefinitely postpone this bill, you are going to be hurting some programs that we are trying to develop for the elderly.

Let me go on about the low-cost drug program. How many of you have constituents out there who are under the Maine Health Program? In other words, they are retirees, they are getting their drugs under the Maine Health Program. That is a mail order drug program that happens to be in New Jersey, it doesn't happen to be in the State of Maine, it happens to be in New Jersey. What do they do? Just before I left here today, I had the television on watching the news and there happened to be an elderly lady on advertising for Action Drug. Where is Action Drug? Well, I don't know exactly but I have been told that Action Drug is in Waterville, Maine, it is a division of LaVerdiere's. LaVerdiere's is advertising "send me your prescriptions." The program is out there now for our own people, the program is being advertised out there now by Action Drug for the elderly — this is a Maine based pharmacy that is advertising it. If they thought there were some problems, I think they might say something in their ads. This is an option program. In other words, you don't need to use it.

If the good Representative from Scarborough, Representative Pendleton, had those problems, an elderly person had those problems, that person could decide, I don't want that option of going mail order, I want to go down to my local pharmacy and deal with it right there. But, for those people who decide they want to go to a mail order, they can do it. It is not that you must do it with mail order, it is an option very much like the one most of us use right now who are under the Maine Health Program. We have three options. I don't know whether people realize it or not but we have three options. This program just gives you another option if you decide you want to have mail order. I hope you don't go along with indefinite postponement of this bill and move on to passage.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I would just like to pose perhaps one question and a half to the Chairman of the Committee.

The first question would be — please permit me to give you both questions and then answer them if you can — were there existing complaints about the existing services for the elderly?

Secondly, did you receive any kind of input for or against these services by the existing pharmacists, not the chain pharmacists but the old fashioned type pharmacists that were individual small

business pharmacists? Have you received any input from them as far as support for this program?

The SPEAKER: Representative Aliberti of Lewiston has posed a question through the Chair to Representative Manning of Portland who may respond if he so desires.

The Chair recognizes that Representative.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: A couple of years ago when the proposal for the Maine Health Program went out of state, the pharmacists in this state went wild. They weren't wild about this proposal either. The key thing though, Representative Aliberti, is whether or not the people in your community want to choose to go to mail order or not. When you go up against a pharmacy in this state, it is very difficult, it is like going up against your own doctor. What you have to realize is that we have programs out there now, this is no different. The pharmacy people want it just the way it is right now. They don't want to change, they don't want to do anything. They want it just the way it is right now. We had testimony from representatives of the elderly group indicating that they thought that this would be a good idea.

Before the Maine Committee on Aging was disbanded, they were pushing this idea. Most of us have used the Maine Committee on Aging for constituent problems one way or the other. They testified last year on behalf of the idea about mail order. Of course this year they couldn't testify because they were disbanded. This year it is even narrower, it is not out-of-state, it is just in-state pharmacies that can compete with this RFP. I hope that answers your question.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: We have about four points that have been brought up that I would like to help clarify.

First, let me state that my knowledge of this subject comes from a bill that we had in Business Legislation in the 114th dealing specifically with the issue of mail order drugs for the elderly. Please remember that the mail order contract which went to the New Jersey company is for long-term maintenance drugs that you take over a long period of time. People who go in have a short-term need such as for infection and those sorts of things and I would say about 100 percent of the time go to the local pharmacy because the mail order program is meant for the long-term maintenance drugs.

The question came up about local pharmacies (Representative Aliberti brought it up) and their ability to participate. During that bidding process, a couple of years ago on the drug program, small Maine pharmacies were able to bid because they have a network amongst themselves that bid on this contract and they were not the low bidder, that is why the bid went to the company in New Jersey. This is not unusual. After all, this is what we are doing with the health program for one of our correctional facilities right now. We have given the bid for those health services to an out-of-state company because we feel it will save money which is the whole point of what I thought we were here to do from day one.

The Representative from Scarborough, Representative Pendleton, brought up the side effects of the drug digitalis and how you could have side

effects from that. Quite frankly, it is your doctor's responsibility to examine you, educate you about your illness, describe to you what drugs he is prescribing or going to do, the possible side effects and what to look for. Pharmacists have always been kind of a second backup to that, to sort of follow it up or catch any misunderstandings you might have had from your physician.

The drugs that come via the mail from the company in New Jersey also come with instructions. But, as you have heard from Representative Manning, there are provisions here to try to keep this more a State of Maine program. Remember, the point of this is to keep the cost low. The elderly want these options because they are on very limited incomes and we know what is happening with those incomes with the drops in interest rates lately. It is very important for them to save money wherever they may.

I hope that we have been able to clear up some of the points you have. I will be willing to answer anymore questions that you might have before you vote. I do encourage you to vote against the pending motion.

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

Representative PFEIFFER: Mr. Speaker, Men and Women of the House: It seems too bad to turn from those wonderful young women to the plight of the elderly. I would like to say a word on behalf of the elderly. As I understand some of the objections to this bill are that elderly people are not able to handle the paper work involved and they might make mistakes on their dosage and so on. Really and truly, most of us are not incompetent, most of us can handle things of that sort.

I should also like to point out that one of the benefits that the AARP offers to its membership which runs into the millions, as most of you know, is a low-cost mail order drug program. This is a highly touted benefit of membership and I think it has proved to be extremely successful. Obviously, hundreds of thousands of people have used it with no difficulty whatsoever. Therefore, I urge you to support this bill.

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

Representative DUPLESSIS: Mr. Speaker, Men and Women of the House: I hope that you will support the motion to indefinitely postpone this bill. The Representative from Portland, Representative Manning, has outlined already that this is a needless piece of legislation because there is already mail order available for our elderly.

I am not going to speak to the needlessness of this because we all have our own personal stories on needless legislation that we have seen passed in this body.

I would like to speak to the pharmacists. They are a very important piece of our health care team and they are very underutilized by our population. Who is taking care of our elderly? We all know who is taking care of our elderly, they are the family practitioners as well it should be. We should be looking at family practicing and the holistic part of delivery of health care. But, they don't know everything there is about every medication. They can't know.

I disagree with the Representative from Houlton

who said that it is the physicians responsibility to educate the consumer on the medication. That can't be done, we are expecting family practitioners to know about pediatrics, geriatrics, obstetrics, orthopedics, they do surgery — there is no way that they can know everything that there is about the medication that they are prescribing.

There are volumes that come out yearly on medication. One of the volumes is called "The Physician Desk Reference." In the 1992 edition, it is about this thick. The pharmacists use formularies that are three times that volume, that is where they get their information. The physicians aren't expected to know everything that the pharmacists know about medications. We can't expect that of them. As a nurse, I have seen that they don't know every aspect of the medication.

We all know that about 70 percent of the people who get a prescription filled do not ask their pharmacist about that medication. I think we need to change that. We need to be sure that that percentage of people asking about their medication increases with their pharmacists because they are the ones that know.

The statistics that Representative Pendleton mentioned about elderly who have been over-medicated perhaps, too many medications prescribed for a certain elderly population, is true. I have experienced it as a nurse in a nursing home. I will never forget my first day walking in and looking at the medication these people were on, some of them 12 to 20 pills a day, more than that. Some of you don't know this but pharmacists come into a nursing home every month, it is a state law. They come in and they review the records once a month. As a nurse, I would receive four pages from pharmacists asking questions — why is this person on this medication? This is an inappropriate medication for this diagnosis. So as a nurse, I had to call the physician and say, "Excuse me, by the way, why is this person on this medication? The pharmacist is recommending that you take him off." The physician didn't know why they were on it. They would say, discontinue it, no problem. That is scary but it happens. We need to use our pharmacists more.

Medications affect blood levels, our liver, we need blood levels drawn on these elderly people. We need liver functions done on these elderly people and it doesn't get done because they are not followed up by a pharmacist.

I hope that you will support the nurses in this House who work with this issue, who have gone into the elderly homes and have seen people on digitalis taking it wrong, taking it one time a day instead of twice a day, taking it every other day instead of once a day, taking the wrong dosage, taking three or four. I hope you support the nurses in this House because we know, we have experienced it, we know what the elderly are going through. I hope that you will vote with the pending motion.

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

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: Just to respond to a few comments that have been made, first, the mail order drugs are not dispensed by high school dropouts. They are dispensed by pharmacists who review the prescriptions submitted by the elderly in this case and are very careful to make the same sorts of decisions that are made at your local pharmacy.

I would like to make a few more points on this to clarify the bill. First, what it does is it requires the Department of Human Services to issue an RFP for a mail order component to this low-cost drug program for the elderly. It can be issued only for in-state bidders. In addition, if it does not save at least ten percent over current costs, the department can refuse all bids, so if it does not save money, we don't have to enter into a contract. What it will do, if accepted, is save the state money and equally as important offer an alternative and a convenient alternative for many elderly people who do have the confidence in their own decision making about the medications that have been prescribed to them to use a mail order service. For those elderly people that do not have that confidences and who wish to continue to have the consultation with their local pharmacy, this bill will allow that. Not passing this bill will not solve a lot of the problems cited by some of the nurse experts so far today. Many of those problems exist with the pharmacy system that we have now because of a lack of communication between the elderly patient and the pharmacist. I assume that people who do not have good communication with their pharmacist, but wish to, probably would not choose a mail order option that would be more difficult for them to have direct contact with their pharmacist.

I would urge you, for many reasons, to not support indefinite postponement and go on to pass this bill.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I would like to let you know that I have some personal experience with the Maine mail order drug company.

To answer partly Representative Aliberti's question, it was recommended to me by my local pharmacist. That pharmacist is one of those who owned one of those small shops but was bought out by one of the larger chains. That person still remains a resource in our community. When I went in with a prescription that was going to have a long-term on it, he recommended to me that for cost savings, I should look at the mail order. So, although his firm may not have approved this bill or given it its blessing, there are individual pharmacists, I believe, who feel that mail order offers an excellent alternative.

The firm available here in Maine, and I am only familiar with one of them, has been extremely efficient, far faster than our current New Jersey firm and I would have total confidences in being able to use them.

I urge you to vote against the pending motion.

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

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

Has anyone checked to see whether it is legal and constitutional to allow the bids to only in-state companies? And, if that hasn't been checked into, assuming that it is unconstitutional or illegal, is the bill still going to be alive if that particular section is declared unconstitutional because it limits it to only in-state companies?

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

The Chair recognizes the Representative from

Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Men and Women of the House: That question was answered by our staff. As the Representative from Augusta knows, there are many attorneys downstairs and they feel quite certain that this can pass constitutional muster, they cited us a number of cases throughout the country. Julie Jones, who is the staff person to many of the committees, feels very comfortable with this piece of legislation.

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

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

In light of the question just asked by the Representative from Augusta, because one of those firms are close friends and parts of that family are constituents of mine, is it my understanding that of those two firms that they have no interest in accommodating this particular business?

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

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Men and Women of the House: Could the Representative please elaborate?

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: It is my understanding that neither Action nor Welby's are interested in doing this particular program if it were to be passed. I am asking the question because I was not present at the committee's deliberations and hearings. But, the people that have talked with me who are part of one of those companies have said that they are not interested in this. If that were to be so, would the same New Jersey firm that is currently providing mail order medications for different programs that we have in this state be the business that would have that opportunity to provide those drugs?

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

The Chair recognizes the Representative from Waterville, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The answer is no. The New Jersey firm is an out-of-state firm and if the two firms that you mentioned do not want to have this, then fine. If no firm decided to bid on it, then fine, but unless we know, unless we try, we are not going to know if we are going to try to save some money both for the elderly, the co-pays and many different issues. If those two firms don't do it, there are other firms in this state that might want to do it.

There could be, quite frankly, a large pharmacy decide they want to do it. We won't know until the RFP's come back. But, the out-of-state firm is not in this. I repeat, it is an in-state bid. We feel very comfortable, the staff downstairs feels very comfortable, they did research on that, they knew that would be a question, they had research done on that, it will be only for in-state pharmacies. I repeat one more time, it is a local option.

While I am on my feet, the good Representative

from Old Town talked about all the horror stories that are presently going on. Well, if they are going on now, what are the pharmacies doing now? She just mentioned all these horror stories. Were those people in nursing homes getting their drugs through mail order? No. Were those people in the homes that she talked about getting their drugs through mail order? No. This is an option. If you think she is talking about horror stories, there are horror stories out there now without the mail order, if you believe what she is saying. I believe the local pharmacies have helped. I believe that the doctors will help.

I just want to remind you, we are currently (ourselves) getting a mail order program, we who are under the Maine Health Program are currently under a mail order program. If that is so bad, then let's see somebody put a piece of legislation in here to do away with mail orders so we can't be affected because if it is bad for the elderly, then it must be bad for us.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: I would like to respond to the question presented by the Representative from Augusta. I have a letter here from a prestigious law firm in Augusta that wrote a letter to the chairman of our committee and I quote from that letter, "Should out-of-state mail service pharmacies be artificially devalued in the bidding process or perhaps even excluded altogether, we believe that there are serious constitutional problems with such restrictions."

So, I think we can talk all we want to about the fact that this is an in-state process. I grant you the fact that it will probably be declared unconstitutional because of the interstate commerce laws.

I would like to respond to the Representative from Portland's comment about perhaps we should exclude mail order programs altogether. I think that is a good idea. Why should we be shipping business out-of-state? This particular program, all by itself, is estimated to ship out a million dollars worth of business to out-of-state, it has that potential. Our own employee program, \$7 million to \$8 million goes out-of-state. I think that is unfortunate when we are sitting here in the worst recession we have ever experienced and we are not supporting our local pharmaceutical business.

The biggest problem I have with the whole issue of the mail order program is that for it to be cost effective, they have to distribute large amounts of medication at a time. That is the problem I have with the whole issue because I think it is very unsafe to have at least over three months supply of medication in anybody's home. It becomes an issue for children because children visit their grandparents. I don't know about you but I have had to deal with elderly parents, elderly family, they become confused about what they are taking, they never throw anything away so they have all these pills hanging around the house and their grandchildren come visit them and guess what happens? The next thing we know we have to make a telephone call to the Poison Control Center because the kids have taken the medication. I think it is just a very unsafe situation and I personally will

never support distributing large amounts of medication. It doesn't mean they have to go to their physician more often, it just means that they have to go to the pharmacy more often. The physicians (very willingly) will give PRN orders on prescriptions where you can refill something for a year but you don't get a year's supply at a time because I think it is a very unsafe practice.

The last point I want to make is that the Department of Human Services, the Bureau of Medical Services in that Department, have continued to tell us that this will not save any money in the General Fund, that where the real saving comes from is in the drug rebate program that the pharmaceutical companies offer and that is where you are going to save money. You are not going to save money in your mail order program. So, for all those reasons, I hope that you will support the pending motion.

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

Representative TREAT: Mr. Speaker, Men and Women of the House: As a member of the Human Resources Committee, I would like to respond to a couple of the points that were just made by the Representative from Scarborough, Representative Pendexter.

First of all on the legal point, I feel very comfortable as a lawyer that this is something we can do. We had an excellent memo prepared for us by the staff that advises us, and as Representative Manning mentioned, include several lawyers. The theory that makes this acceptable is called the Market Participant Theory, that is a theory whereby the state is actually acting as part of the market. It is the same theory under which we can ban out-of-state waste from landfills that are owned by the state. It is certainly true that people who don't like this can raise the question about its legality but I feel fairly comfortable as an individual who has looked into this issue that we would in fact win that lawsuit fairly easily.

Secondly, as an individual, I kind of resent the implication that elderly people like my parents are going to be incapable of filling out the forms and getting this medication. There is this underlying theme of paternalism here that I personally find somewhat offensive and I think everyone else here should as well. This is not the issue. This is a good program and those people who want to take advantage of it should have the ability to do so and should have the option of doing so. It doesn't require anybody to take advantage of this program who doesn't want to.

The third point that I would like to make is in regard to the point made that this is not going to save money according to the Representative from Scarborough. As has been pointed out, if this doesn't save money, the bill self-destructs. If it doesn't save at least ten percent, then there won't be a mail order program. So, it is irrelevant, it is an experiment, let's try it out. If it works, it saves money; if it doesn't save money, then it self-destructs and goes away.

I urge you to vote against the pending motion.

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

Representative DUPLESSIS: Mr. Speaker, Men and Women of the House: I take exception to what the Representative from Portland, Representative Manning, said about me when he said, if you can believe what

she says. I speak from my heart and I speak with honesty. I do not make up stories on the floor of the House. I bring my personal experiences, my knowledge, and it is the truth.

The only other point I would like to make is yes, these horror stories occurred without mail order. My point is, and I agree with the Representative from Scarborough, Representative Pendexter, when she said, get rid of mail order. We should be using our pharmacists more as resources. That is my point.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I have only my own very limited experience to bring to this debate. I take one medication which I must have daily. Therefore, according to our plan, I must send it to mail order. I have decided simply to pay for it myself because it is a major pain in the butt to do what they want me to do which is go to a doctor every six months to get a new prescription which my doctor doesn't want to do. If I have to really go and sit in his office and pay him to do it, then that wipes out any savings I might have. The idea of doing away with mail order sounds really good to me.

The SPEAKER: The Chair recognizes the Representative from Alfred, Representative Gean.

Representative GEAN: Mr. Speaker, Men and Women of the House: I think it is high time that we quit lumping on the elderly and imagining that they are far less capable than anybody in this argument would admit. We are on the verge of offending, not only my mother, but the President of the United States.

I would also like to point out that if you talk only to the pharmacy lobby in this House, you will find out that they are not at all happy with this bill and that you will end up arguing primarily the red herrings that we have been dealing with here this morning. If, however, you were to talk to the elderly people, you will find that they absolutely support the convenience and cost savings of this bill.

Following the appeal on behalf of the nurses in this House as posed by Representative Duplessis, I would like to agree with her that I believe that she does speak from her heart and that she is not a dishonest person. The fact is though she attended less than half of the committee meetings dealing with this bill.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I would like to speak to this issue on two points. First of all with respect to mail order being obligatory, it is not now obligatory for Maine employees or any member of the Maine State Employees Health Plan to use mail order. Everyone has the option of paying at their pharmacy with their drug card and submitting their bills through their major medical. Frankly, for anyone at this point when we still have the \$600 lifetime deductibility limit for anyone who has high pharmacy bills over a period of time, it is to their advantage to pay for those and then submit it to their major medical and get reimbursed. Under this program, again for the elderly people in the low-cost drug program, it would not be mandatory, it would be an option.

Let me tell you why we need that option. We have all been through several budget debates in the last year and a half and we will go through another one within the next week. In each one of those budget

proposals that we have received from the Administration has been a proposal to increase the costs for persons who are eligible for the low-cost drug program for elderly citizens, to increase co-payments and to remove the cap on the number of prescriptions for which there would be a co-payment. That has been a proposal over and over again from the Administration. So far, we have been able to eliminate much of those increases by not taking the cap off. That is a very important point. In order to keep this program viable and affordable for the elderly citizens who need it, who are eligible for it, we have to keep their co-payment affordable. Remember, we are talking about people who are living on very low incomes. If those co-payments rise, if the cap were to be taken off on the number of prescriptions on which there would be a co-payment, since it has already been discussed here that many elderly people do have multiple prescriptions that they use on a daily basis, then the program would be unaffordable for many of the elderly citizens who are eligible for it.

We need to explore all ways of keeping this program cost under control. One of the ways is to make use of the drug rebate program. We put language into the budget that was passed in December in order to do that. The Department of Human Services will now be pursuing the rebate program. Just like they do for the medicaid program, they will pursue it for the low-cost drug program. We also need to explore whether there can be any savings through a mail order system. If there won't be any savings, then, as has already been pointed out, the bill will not have an effect, it will not be utilized. But, if there would be a savings, then we owe it to the elderly citizens of this state who are eligible for this program and who need help in keeping this program affordable, we owe it to them to give them that option. We need to find out. We have asked the Department of Human Services, both from the Appropriations Committee and from the Human Resources Committee, several times to explore this option. We now have legislation that will tell them, explore this option, find out, once and for all, whether it can bring any savings. We need to do this, we need to get this answer and we are trying to be fair to the pharmacists and the pharmacy chains within our own state by saying they will have the option, not an out-of-state firm.

We are also exploring trying to bring back the pharmacy program for the Maine Employees Health plan back into the state.

This is a fair bill. It is a fair way of exploring whether this would be a cost savings. If you are interested in keeping this program affordable for the elderly citizens of your district who are now using it or will need to use it in the future, then you ought to vote against the pending motion.

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

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I happen to be one of the elderly who does have prescription drugs. I get them from my own pharmacist. I pay for them myself and I have never tried to get reimbursement for that. I don't need to. I do sympathize with people who might.

I want to mention that my pharmacist gives a ten percent discount to elderly people. He will deliver to your home if you are in need of your prescription and you run out. On several occasions when I have been in Augusta, he has mailed my prescription to me.

We already have mail order prescription in state service. I don't see why we need to add another.

I wonder if I could pose a question to a member of the committee? My question is, what would preclude an out-of-state firm from moving into the state to bid on this process? Have you then done a disservice to the in-state pharmacists?

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

The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: If you look at your amendment to L.D. 403, the language that defines what an in-state bidder is says that it is limited to a group of persons or person whose principal place of business is located in the State of Maine. So, if you have an out-of-state firm that sets up shop in Maine, just merely a warehouse, that will not constitute an in-state bidder under this definition. They would have to have their sole place of business in the state. So, we will not be getting some out-of-state firm if in fact the bids come in with a savings, we will not be getting an out-of-state firm that is merely setting up a warehouse in the state.

Representative Duplessis of Old Town was granted permission to address the House a third time.

Representative DUPLESSIS: Mr. Speaker, Men and Women of the House: My character and integrity have been questioned on the floor of the House today and I know I take a risk by getting up a third time.

I just want to say that we had 11 work sessions on this issue and I found that after five work sessions, I was well read on it and I needed not to attend anymore.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I am here today with the admission that I also am an elderly user of medication. We are not talking about incompetence of elderly, we are talking about the aging process and the ability sometimes to reason. That doesn't mean we are condemning all elderly people. This happens to a percentage of these people. We are talking about drug interaction. That is what we are talking about and drug interaction causes a lot of those symptoms that I just mentioned that we could eliminate by families being able to contact a local pharmacist about the medication that is being used.

Mail order for state employees, for the teachers association, is sending megabucks out of this state. In rural areas, it is a big problem to get prescriptions. There is not a pharmacist who will not mail or deliver medication to you. When you try to use mail order benefits of your insurance in-state, they make it as difficult as they can for the in-state pharmacist to compete with that out of state, I know, I have had some of those prescriptions filled. You can't have this and you can't do that. You have two co-pays instead of one co-pay. The pharmacists in this state have been very aggressive and have kept up with the times.

I hope you will join others in voting "Ought Not to Pass" on this piece of legislation. It has a fiscal note. We are not at a time where we need to go out and spend \$20,000 for a pilot project that will cost the state taxpayers more money. We have that service in the State of Maine today.

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

Representative RAND: Mr. Speaker, Men and Women of the House: The underlying problem that we are trying to address here is the exorbitant cost of prescription drugs. The Congress of the United States has investigated this issue and discovered that pharmaceutical corporations have enjoyed astronomical profits during the last ten years. Until the day we remedy our national health care situation, we must explore every option to help our citizens obtain the medical treatment they need. L.D. 403 is a small step in the right direction. Please vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: Representative Pines just brought something to my attention when she referred to rural areas. I think that we should consider the difference between having one or two pharmacists to deal with or a multitude of pharmacists as you may have in the city.

Now, I am going to give you a personal example. My husband was prescribed a drug by a doctor from Lewiston and he had to have the prescription renewed over the telephone using our local pharmacist, not a chain pharmacy, a privately owned pharmacy, and for 50 pills he paid \$110. When he came down a couple of weeks ago for his checkup, the same doctor prescribed 50 more pills. In fact, he wanted to prescribe 100 but my husband said 50 at a time is enough. My husband went here in Augusta and had it filled at LaVerdiere's and instead of paying \$110 for 50 pills, he paid \$87. So, think of what is happening in the rural areas where there is no competition.

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 Pendleton of Scarborough that L.D. 403 and all accompanying papers be indefinitely postpone. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 355

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Butland, Carroll, J.; Cote, Donnelly, Duffy, Duplessis, Farren, Foss, Garland, Greenlaw, Handy, Hanley, Hepburn, Jalbert, Joseph, Ketterer, KilKelly, Kutasi, Lebowitz, Libby, Lipman, Look, Luther, MacBride, Marsano, Merrill, Morrison, Murphy, Nash, Nutting, O'Gara, Ott, Paradis, J.; Parent, Pendexter, Pendleton, Pines, Poulin, Reed, G.; Reed, W.; Ricker, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tupper, Vigue, Waterman, Whitcomb.

NAY - Adams, Anthony, Bell, Carleton, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Crowley, Daggett, DiPietro, Dore, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Gould, R. A.; Graham, Gray, Gwadosky, Hale, Hastings, Heeschen, Heino, Hichens, Hogleund, Holt, Hussey,

Jacques, Kerr, Ketover, Kontos, Larrivee, Lawrence, Lemke, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Nadeau, Norton, O'Dea, Oliver, Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Pouliot, Powers, Rand, Richardson, Rotondi, Rydell, Saint Onge, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Tamaro, Tardy, Townsend, Tracy, Treat, Wentworth.

ABSENT - Bowers, Cahill, M.; Goodridge, Gurney, Hichborn, Lord, Marsh, Richards, Ruhlin, Sheltra, Swazey, The Speaker.

Yes, 60; No, 79; Absent, 12; Paired, 0; Excused, 0.

60 having voted in the affirmative and 79 in the negative with 12 being absent, the motion to indefinitely postpone did not prevail.

Subsequently, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-624) 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" (S-624) in concurrence.

Under suspension of the rules, the following item was taken up out of order by unanimous consent:

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Coach Bruce Cooper; Assistant Coaches Ron Voisine, Larry Deans and Scott Ballard; Managers Brandy Boutin and Christy Hamlin; and the following members of the Lawrence High School "Lady Bulldogs" Basketball Team: Marsha Hamlin, Taffy Witham, Jessica Giorgetti, Jessica Daigle, Erin Bennett, Danielle Batey, Katie Flood, Cindy Blodgett, Wendy Atwood, Jill Atwood, Janet Francoeur, Karen Weymouth, Catherine Suttie and Shannon York, winners of the 1992 Girls Class A State Basketball Championship; (HLS 902) by Representative GWADOSKY of Fairfield. (Cosponsors: Senator MATTHEWS of Kennebec, Representative PARENT of Benton, Representative STEVENSON of Unity, Representative AULT of Wayne)

On motion of Representative Gwadosky of Fairfield, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Men and Women of the House: I know the Speaker will be introducing the members who happen to be here today and I know I speak on behalf of my colleagues, Representative Stevenson and Representative Parent, who are also Representatives of the SAD #49 Lawrence High School when we say how thrilled that the girls from Lawrence could be here today with us. Last year when Lawrence High School won the State Class A Girls

Basketball Championship for the first time in a million years it seems, they graduated seven seniors from that team and expected to be competitive this year eventually as some of the more inexperienced players matured. That maturity came sooner than later as they ended up running into an undefeated season this year. In fact, they have won 39 straight games over the past two years. This year they traveled to Portland to play a very, very talented Portland team with some outstanding individual players, well coached and a team that has established a dynasty for themselves in western Maine being in the tournaments some 10 out of 11 times and being in the finals some 10 out of 11 times.

The girls had some interesting experiences traveling down to Portland. They defeated Portland last year and the prospects of playing Portland again was looked upon with a great deal of anxiety because Portland has always been such a difficult team to play particularly in Portland. The girls ate in Portland in the middle of the afternoon and then spent some time in the mall prior to the game. They had the opportunity to meet several Portland people who suggested that they had done well this year to get as far as they had but Portland was going to be in fact winning this year. I remember Coach Cooper suggested, after they left the restaurant, that given the fact that it appears they have no chance of winning, they might as well get on the bus and head north right now but the girls convinced them that since they had already made the trip, they might as well go over and at least play the game and play they did. As you know, they have a very talented team, they showed a great deal of poise and confidence in their abilities. They are well coached, they followed the game plan very closely and showed a great deal of class. They are great sports people and tremendous role models for our school and community.

In the last couple of years, it has been very difficult in each of our communities, as we have seen our school budgets being unraveled and it is difficult to keep morale up in the school districts back home. I can't tell you what it has meant to have this type of effort by these people who are also fine students. It has really brought opportunity together — as I said, they are tremendous role models, we are very proud of their accomplishments this past year. It is kind of surprising and very difficult to imagine winning two state championships back to back. We are very pleased that they were able to do it with the sportsmanship and the way they carried themselves through the year.

The funniest thing happened — since last year, we noticed after they won the state championships, in my neighborhood, all the baskets that were traditionally up at 10 feet suddenly got lowered to eight feet and suddenly there are second and third grade girls playing basketball for the first time. In fact, it has had a tremendous impact on our basketball program and we are very, very proud of them.

The SPEAKER: The Chair recognizes the Representative from Benton, Representative Parent.

Representative PARENT: Mr. Speaker, Members of the House: I have got a special place in my heart for Lawrence High School having worked there for 17 years. My wife is presently the head of the Home Economics Department there. Upstairs in the balcony sits a group of fine young girl athletes and

outstanding, excellent basketball players. Excellence is always deserving of the highest recognition and what better place is there to get this recognition than from the House of Representatives in your own state. So, along with Representative Gwadosky and Representative Stevenson, I would ask the members of the House to join in recognizing and honoring the best Class A Girls Basketball team in the State of Maine, the Lawrence High School Bulldogs. Congratulations girls!

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.
 Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: A couple of days ago, people were wondering why we, the Portland people didn't get up. I talked to my good friend in the corner and he had said that the Lawrence girls were going to be up in a few days. I said I would eat crow then instead of eating crow now.

Girls, I apologize for those people in Portland who thought you were going to lose. I apologize for those people at the Maine Mall, those people who thought you were going to lose. I warn anybody else next year who is going to play Lawrence, don't threaten them ahead of the game. I have never seen a girls team nor a boys team come out as fast or as furious and with such determination. I must add that most people — and this is nothing to take away from Cindy Blodgett, but most people think it is only Cindy Blodgett, she is probably the best or one of the best girl basketball players to ever come out of the State of Maine and she has got two more years to go. I want to say to the rest of you girls, you probably could have beaten Portland without Cindy Blodgett and that is a credit to both the coaches and the rest of you. From us in Portland, we apologize if we got your anger up. Thank God you are going to Bangor next year. And, for those who have to play them next year, you better tell your towns to leave them alone ahead of time because, if not, it will probably be worse next year. Congratulations!

Subsequently was passed and sent up for concurrence.

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

Non-Concurrent Matter

Bill "An Act to Require a Total Least-cost Energy Plan and to Establish a Moratorium on Fossil-fuel Fired Electric Generation Facilities in This State" (EMERGENCY) (H.P. 1625) (L.D. 2288) on which the Minority "Ought to Pass" as amended Report of the Committee on Utilities was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-1083) in the House on March 16, 1992.

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

Representative Clark of Millinocket moved that the House recede and concur.

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

Representative GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will defeat the motion before you and support me in further Insisting.

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

A vote of the House was taken.

28 having voted in the affirmative and 79 in the negative, the motion to recede and concur did not prevail.

Subsequently, the House voted to Insist.

COMMUNICATIONS

The following Communication: (S.P. 956)

115TH MAINE LEGISLATURE

March 17, 1992

Senator Stephen C. Estes
 Rep. Nathaniel J. Crowley, Sr.
 Chairpersons
 Joint Standing Committee on Education
 115th Legislature
 Augusta, Maine 04333

Dear Chairs:

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

University of Maine Board of Trustees:
 Frederick A. Reynolds of Machias for appointment
 John R. DiMatteo of Falmouth for appointment
 Patricia Collins of Caribou for reappointment

Student Member of the University of Maine
 Board of Trustees:
 Peter Crockett of Gardiner for appointment

Pursuant to Title 26, MRSA Section 1022, these nominations will require review by the Joint Standing Committee on Education 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 Education.

Was Read and Referred to the Committee on Education in 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:

Transportation

Bill "An Act to Create the Maine Transportation Authority As the Successor Agency to the Maine Turnpike Authority" (H.P. 1739) (L.D. 2426) (Presented by Representative MACOMBER of South Portland) (Cosponsored by Representative STROUT of Corinth, Representative FOSS of Yarmouth and Senator BRANNIGAN of Cumberland) (Governor's Bill)

Ordered Printed.
Sent up for Concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

ORDERS

On motion of Representative MAHANY of Easton, the following Joint Order: (H.P. 1737)

Ordered, the Senate concurring, that the Joint Standing Committee on State and Local Government consider proposing an amendment to the Constitution of Maine to amend Article V, Part 1, Section 3 to provide that if no candidate for the office of Governor receives a majority of votes cast in an election for Governor, the House of Representatives shall select 2 candidates for the office from among those running and that the Legislature shall elect a Governor from the 2 candidates.

Was read.

On motion of Representative Mahany of Easton, tabled pending passage and later today assigned.

ORDERS OF THE DAY

UNFINISHED BUSINESS

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

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

JOINT ORDER - Relative to the Joint Standing Committee on State and Local Government considering proposing an amendment to the Constitution of Maine to eliminate barriers to democracy (H.P. 1733)
TABLED - March 17, 1992 (Till Later Today) by Representative MAHANY of Easton.
PENDING - Passage.

On motion of Representative Mahany of Easton, retabled pending passage and later today assigned.

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

An Act to Establish a Boundary between the Town of Skowhegan and the Town of Madison (H.P. 1612) (L.D. 2273)

TABLED - March 17, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

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

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

An Act to Make Revisions in Marine Resource Laws (H.P. 1464) (L.D. 2076) (C. "A" H-1079)

TABLED - March 17, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

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

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

An Act to Implement the Jobs Creation Bond Package (EMERGENCY) (H.P. 1708) (L.D. 2389) (S. "C" S-595)

TABLED - March 17, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

On motion of Representative Mayo of Thomaston, tabled Unassigned pending passage to be enacted.

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

An Act Relating to Legislative Confirmation Hearings" (S.P. 894) (L.D. 2299)

TABLED - March 17, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield.
PENDING - Passage to be Enacted.

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

TABLED AND TODAY ASSIGNED

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

JOINT ORDER - Relative to the Joint Standing Committee on State and Local Government to consider proposing an amendment to the Constitution

of Maine to provide for a unicameral Legislature (H.P. 1732)
 TABLED - March 17, 1992 by Representative MAHANY of Easton.
 PENDING - Passage.

On motion of Representative Mahany of Easton, retabled pending passage and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-1136) - Committee on Taxation on Bill "An Act to Allow Municipalities to Appeal the New State Valuation" (EMERGENCY) (H.P. 1692) (L.D. 2372)
 TABLED - March 17, 1992 by Representative MARSANO of Belfast.
 PENDING - Motion of Representative CASHMAN of Old Town to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Lord of Waterboro, retabled pending the motion of Representative Cashman of Old Town that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

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

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Implement Constitutional Provisions Restricting the Imposition of Unfunded State Mandates" (S.P. 767) (L.D. 1963)
 - In Senate, Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.
 TABLED - March 17, 1992 by Representative JOSEPH of Waterville.
 PENDING - Acceptance of Either Report.

On motion of Representative Joseph of Waterville, retabled pending acceptance of either report and specially assigned for Thursday, March 19, 1992.

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

Bill "An Act to Repeal Increases in Concealed Weapons Permit Fees and to Increase the Fees Related to Arbitrations under the Lemon Law" (EMERGENCY) (H.P. 1601) (L.D. 2263)
 TABLED - March 17, 1992 by Representative GWADOSKY of Fairfield.
 PENDING - Adoption of Committee Amendment "A" (H-1138).

Representative Lawrence of Kittery offered House Amendment "A" (H-1147) to Committee Amendment "A"

(H-1138) and moved its adoption.
 House Amendment "A" (H-1147) to Committee Amendment "A" (H-1138) was read by the Clerk and adopted.

Committee Amendment "A" (H-1138) as amended by House Amendment "A" (H-1147) thereto was adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1138) as amended by House Amendment "A" (H-1147) thereto and sent up for concurrence.

BILL HELD

Bill "An Act to Establish a Budget Committee and Process for Cumberland County" (EMERGENCY) (H.P. 1603) (L.D. 2265)
 - In House, Majority "Ought Not to Pass" Report of the Committee on State and Local Government read and accepted.
 HELD at the Request of Representative MITCHELL of Freeport.

On motion of Representative Mitchell of Freeport, the House reconsidered its action whereby the House accepted the Majority "Ought Not to Pass" Report.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I didn't want this bill to pass without making a few remarks on it.

The bill has a Majority "Ought Not to Pass" Report from the Committee on State and Local Government and I understand the reason for that is that there is a lack of unanimous agreement among the Cumberland Delegation as to what we should do about this particular problem. Part of the background of that disagreement is the size of our delegation. The Cumberland County Delegation has more than 40 members, it is larger than the State Senate and it is very difficult for us to get together and agree on anything.

We in Cumberland County have a fairly severe problem. Cumberland County is the largest county in the state, it has a quarter of a million people, 250,000 people, and goes from Cape Elizabeth to Harpswell and it goes from the coast into Bridgton. The county is governed by three county commissioners and there is an advisory budget committee which makes recommendations to the commissioners.

Cumberland County has a budget of about \$10 million dollars. When the legislature stopped doing the Cumberland County budget back in the early 1980's, the county had a budget of around \$3 million dollars so you see that it has grown dramatically. When I first came to the legislature, the county assessment on the town of Freeport was about \$35,000 and now the county assessment on the town of Freeport is about \$190,000.

We have three county commissioners and in the rural part of the county that I represent, our commissioned district extends from Harpswell to Bridgton. South Portland and Cape Elizabeth pretty much have their county commissioner and the city of Portland has a county commissioner there. I saw our county commissioner once on an election day in

Freeport where he stopped by the polling place to get a few votes. That's the only time I have ever seen him other than that particular visit and I think that was about six years ago. I don't think there has been a Cumberland County Commissioner in Freeport.

We were all invited to a meeting of county officials in the city of Portland a couple of years ago and they gave us some information about the growth of the county and all of the nice things that they were doing for us. My friend, Representative Coles, was a little disturbed that on the cover of their handout, a very nice notebook that they presented us with all their information, they had a map of Cumberland County and they neglected to put Representative Coles' town of Harpswell on the map — you know how important it is to them.

The real purpose for this bill was to empower the budget committee and give them some authority. We need this authority because our property taxes are out of control and we have absolutely no control over the county budget. There is a budget committee that makes recommendations to the county commissioners, the county commissioners take the recommendations if they want to and if they don't want to, they just go and do it. They levied this tax on the municipalities and we just have to pay it and there is nothing that we can do about it.

In 1988 and 1989, the increase in the budget for those two years was 60 percent. Then a few more aggressive people were appointed to the budget committee and it has been held down but it is just too much, we can't afford to pay it. The county doesn't give people in Cumberland County many services. I have lived in Cumberland County all my life and the only two services that I have ever gotten from the county was the use of the Registry of Deeds and when I was a much younger man, I went to the county to register for the Selective Service System. In my lifetime, those are the only two things.

My share of the Cumberland County tax is about \$48 so I pay \$48 a year and if I have a deed I want to register, I can do that. We are just not getting our money's worth, it is an incredibly expensive proposition and we are poorly represented. Our commissioners represent 75,000, we don't see them. They go out and levy this tax on us and, unlike the members of this House when we levy a tax, it comes directly out of people's paycheck or they pay it when they buy something at the store. Unlike the members of our town council when they levy a tax, they send a tax bill out and they get the heat for it. Our county commissioners go out and increase the tax (who knows who they are) and then our town councilors send out the tax bills and take all the heat for it. That is why we want to empower our Cumberland County budget committee so we can have a little control over this process. It is very expensive, it costs a lot of money, they provide few, if any, services to the man on the street and I hope that you vote against the "Ought Not to Pass" Report and support the motion to pass this bill out.

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

Representative LARRIVEE: Mr. Speaker, Men and Women of the House: I would urge you to accept this Majority "Ought Not to Pass" Report. The good Representative has delineated some very serious problems with the county budget process in

Cumberland County and I would be among the first to recognize that he is not incorrect in any of those statements regarding the problems. However, the problem comes here as we looked at this as a committee about what the solution was to that problem. Having sat in on all the Cumberland County Delegation meetings that have occurred, it was not a problem in my opinion of a lack of unanimity but a lack of more than two people who have the same thought about how the problem ought to be cured.

Currently the Cumberland County Commissioners have quite an extensive study group working on making some recommendations for change in Cumberland County and it was the committee's feeling that we should wait and see what their recommendations were. Until there was some sense of where the majority (at least of the delegation) wanted to go, that we shouldn't make a change at this time.

I would urge you to support the current motion which is to accept the Majority "Ought Not to Pass" Report.

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

Representative DIPIETRO: Mr. Speaker, I would like to pose a question through the Chair to the good Representative from Freeport.

What I would like to ask the good Representative from Freeport is that it says they want to form a committee — does this mean of elected officers presently or do we have to go out and have another election to elect some other people?

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

The Chair recognizes that Representative.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: When the bill was presented, it was based on the Aroostook County model, which was model in which the members of the budget committee were elected. The State and Local Government Committee, at the advice of some municipal officials in Cumberland County, changed that and created a system where the members of the budget committee would be elected at a caucus of municipal officials. There would be no General Election for members of the budget committee.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will support the "Ought Not to Pass" Report. I am really surprised and pleased (I guess I would say pleased) that things are so bad in Freeport.

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

Representative ANTHONY: Mr. Speaker, Men and Women of the House: The good Representative from Standish and I are on the same committee and we generally disagree about everything but on this one we agree one hundred percent. It is such a rarity that I just wanted to have an opportunity to get up and agree with him and express that the "Ought Not to Pass" Report is the only one that makes sense in this matter.

The SPEAKER: The Chair recognizes the

Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I felt that you had heard from the other two members of the South Portland Delegation and that we should all be heard.

I hope you will go along with the "Ought Not to Pass" Report. Each town, I guess, is studying what they want to do about the county but nobody is in any position right at the present time to make this sort of decision.

I agree with almost everything that the Representative from Freeport says. In my city, I think the last time I heard we were paying close to \$900,000 in county tax. Actually, all the city of South Portland receives is the Board of Registration plus the judicial system. That's quite a big tab to pay just for those two particular services.

The Representative from Freeport says Portland has a commissioner and South Portland has a commissioner — I think perhaps he got carried away a little bit there because the other commissioner represents much more than just South Portland. I don't know exactly how far he goes but it is the circumference of whatever the mileage is and it takes in quite a few other towns too I think.

Right now, I don't think we are prepared to do anything at the present moment. I hope you will go along with the "Ought Not to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

90 having voted in the affirmative and 9 in the negative, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The following items appearing on Supplement No. 1 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 "A" (H-1142) on Resolve, to Establish a Blue Ribbon Commission to Examine Alternatives to the Workers' Compensation System and to Make Recommendations Concerning Replacement of the Present System (H.P. 1696) (L.D. 2376)

Signed:

Senators: ESTY of Cumberland
CONLEY of Cumberland
CARPENTER of York

Representatives: LIPMAN of Augusta
AIKMAN of Poland
RAND of Portland
PINEAU of Jay
HASTINGS of Fryeburg
ST. ONGE of Greene
BENNETT of Norway

RUHLIN of Brewer

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

Signed:

Representatives: McHENRY of Madawaska
McKEEN of Windham

Reports were read.

On motion of Representative Rand of Portland, the House accepted the Majority "Ought to Pass" Report, the bill read once.

Committee Amendment "A" (H-1142) was read by the Clerk.

On motion of Representative Mayo of Thomaston, tabled pending adoption of Committee Amendment "A" (H-1142) and later today assigned.

Divided Report

Later Today Assigned

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1143) on Bill "An Act to Allow Elementary and Secondary Schools to Obtain Insurance Coverage through the Risk Management Division" (H.P. 1449) (L.D. 2061)

Signed:

Senators: KANY of Kennebec
McCORMICK of Kennebec

Representatives: MITCHELL of Vassalboro
ERWIN of Rumford
TRACY of Rome
KETOVER of Portland
JOSEPH of Waterville
RAND of Portland
PINEAU of Jay
GARLAND of Bangor
CARLETON of Wells
HASTINGS of Fryeburg

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

Signed:

Senator: BRAWN of Knox

Reports were read.

Representative Mitchell of Vassalboro moved that the House accept the Majority "Ought to Pass" Report. The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I had an opportunity to speak with an insurance carrier in my district earlier in the week who had some very serious problems in regard to this bill. Even though all the House members are on this Report, he made some very valid points to me regarding the impact that this would

have on the private insurance carriers.

Given that, I would be remiss if I were not to have a roll call on this so that people could have a record of exactly who was in favor and in support of this bill.

Mr. Speaker, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would say that this would have an impact on the private sector of this economy. However, I believe that when the premiums paid out are so far in advance of anything that would ever need to be collected, lest we have a total emergency situation throughout the state, it is a subsidy that I cannot endorse.

I have been trying since 1974 to get this state to listen to this concept. It isn't an original idea of mine. Dr. Keith Crockett had it in 1968 when he headed up school construction in this state. The savings are there, our present system of guaranteeing that a building will be replaced, if burned, placing it at the top of the replacement list makes it a double, double payment. I don't think this state can afford that kind of a subsidy to anybody and I believe that this provision should be made available to those school systems that so desperately need a break right now. This will give them an immediate break in terms of the cost of insurance.

How many ways can you have it? If a building burns, it goes to the top of the replacement list. There should be a cushioning of that loss and there will be through the Risk Management Pool but it won't be many years, if we pass this bill, that future legislatures will be looking at a balance in that account that will tempt them because it will be a pool of money of a significant size. I believe that it can be better directed than double insuring what doesn't need to be.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: In addition to the excellent comments of Representative Norton, it would behoove you to take a quick look at the Committee Amendment. The Committee Amendment makes more responsible the state's ability to deal with insurance of entities about which it is concerned.

The committee moved in concert with the Division of Risk Management and the current administration to make more actuarially sound all those entities that the state has become responsible for and to separate that out into a separate fund which is a state-sponsored fund in addition to our fund which self-insures all state-owned buildings.

You might be interested to know that there are 44 different entities that the state has had to offer some form of insurance to through the Risk Management Division because those are people who couldn't get insurance otherwise or the state was trying to help them to help us. It starts with the very Special Arts of Maine, Wells Reserve Sanctuary, the Training Resource Center, Search and Rescue Volunteers, asbestos removal, pesticide applicators, people who simply couldn't be deal with with other places or the costs were so exorbitant that they would not work with the state.

So, this bill, first of all, really must be

enacted or you are leaving the state in an extraordinarily precarious position because the federal government has said that their accounting cannot continue in this way unless we segregate out those entities which are not state funded.

Representative Hanley has said he has heard from an agent who doesn't like this bill — that's probably true, but my question to Representative Hanley is, if he were choosing insurance for his car or his home, would he get at the cheapest place? I submit to you that he would. I would like to remind him that he is being very generous with taxpayer dollars because all the insurance for schools is purchased either by the local property tax or by state taxes. This bill gives an option to schools to buy their insurance at the cheapest place. My goodness, we know that we certainly need to save money for schools so we can educate the children so let's not be so generous with taxpayer dollars when we can buy insurance much cheaper through this vehicle.

I would urge your support for the Majority "Ought to Pass" Report and remind everyone that this is not a partisan issue, it is supported by the administration and by 12 of the 13 members of my committee.

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 Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I would just respond to the good Representative from Vassalboro, Representative Mitchell, that yes I guess I would go to the place that has the cheapest insurance but if my vehicle was to be stolen or my vehicle was to be burned, I would want the assurance that the insurance company would be able reimburse me to buy me a new vehicle and not to go to the rest of the people of the state to finance a new purchase of a vehicle.

I realize, having reviewed the amendment, that there is language to make this fund actuarially sound. My concern would be the extent of damage that could be incurred regarding a number of schools being burned down at the same time we are having substantial damage to them and the fund not having enough funds to replenish that or to provide for reconstructive costs and the like. My concern would be then, where would the state go or where would the schools go to have these schools reconstructed? My concern would be that the schools would turn, since the company no longer had the resources available, to the people of Maine to bond them out of this predicament.

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

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as a sponsor of this L.D. and I want to thank the Banking and Insurance Committee for their hard work in a bipartisan manner on this issue.

One of the things that we did say to the part of the funds that schools would be placed in, and I

think that satisfied my concerns, I know especially concerns that were raised in committee by Representative Hastings, that the state could not use this fund to borrow from anymore to balance the state budget because there always has been, due to good management of this fund, plenty of money there when we borrowed from it. If you look at this amendment, it says that that part of the fund that the schools would be placed in if they opt to do it cannot be borrowed from again to balance the state's budget.

I want to give you a few numbers though — if you look at how much the schools have paid for insurance and how much their claims are, and you can go back year after year on this, in 1990, the schools in Maine paid almost \$3.5 million dollars for fire and theft insurance. Total claims for the year were \$207,000. You can go back and do that year after year. In talking to experts at the Maine Risk Management Division, they estimate savings from this to be a minimum of \$2 million to probably \$2.5 million annually. To me that is one of the most important things we should do this year, especially in light of flat funding of schools, that is to allow them the option to save some money on their insurance.

I would urge your support of the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

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

To anyone who could answer, I have asked this question before and I have not gotten an answer — my concern is a catastrophe such as having witnesses a B-52 crash in a field very near Limestone High School, what funds would be available in such a catastrophe for the liability that would be created there? It is my understanding that we cannot sue the government. If we go into this program, would we be covered in such an instance, not only in my area but in any area?

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

The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: Yes, you would be covered. This fund is actuarially sound and the state would purchase reinsurance for any amount in excess of what you paid your premiums for. It is call reinsurance that takes care of extraordinary amounts of money.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

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

What companies would reinsure to that extent?

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

The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to answer that question.

For years now the Maine Risk Management Agency

has used other companies for reinsurance and current state statutes state that any company that is going to be used for reinsurance must be regulated under Title 24a and must have an A rating.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

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

My question is that's a Maine statute — are there such insurance companies available in the State of Maine for reinsurance?

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

The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Ladies and Gentlemen of the House: The answer to that question is no. Within our state, domiciles in our state, we would not have insurance companies but that would be true of most of the insurance companies from which you purchase your insurance now or that your communities purchase their insurance for their local schools now. They are purchasing it from companies that are domiciled outside the State of Maine. They are still regulated by the State of Maine, we set the regulation levels for those companies and it is undoubtedly true that the company from which your local communities now purchase their insurance also purchase reinsurance. We just don't have any way of knowing that because all insurance companies decide how much risk that they want to assume themselves and then they purchase reinsurance for any risk over and above that amount. It does not say so in your policy so you would have no way of knowing how much of your local school's policy is totally insured through the company that is on the face of the policy and how much is reinsured. But, for the protection of that company and the protection of the insured purchasing insurance from them, most companies will only allow themselves to be exposed to a certain amount of risks and then they purchase reinsurance.

We have a very good regulation of insurance in our state and of reinsurance to the extent that that is possible under federal and state law. So, I think you can rest assured that the State of Maine would not be open to any liability that we could not withstand. It states right in the amendment that "the state administered fund may purchase excess insurance so as to limit its exposure as recommended by the Commissioner."

While I am up, I just want to add that it is my understanding that we could stand to save approximately \$2.5 million dollars with this bill. In the Appropriations Committee this week we have been struggling to replace \$10 million dollars into the General Purpose Aid Fund because we want to be able to offer as much aid to our local school districts as possible, to fund them at the level that they have been funded this year and not to ask them to stand any further cuts.

Just think about it, do we want to put our money into General Purpose Aid to be used for teachers in classrooms or to be used to purchase insurance at a much higher cost than if we do this through allowing those towns to make a decision, it is not a mandatory decision, it is a voluntary decision, if they wish to save this amount by being able to

purchase it through the state administered funds, they can do so. It is done in many other states. In fact, in national circles at national meetings, we have been asked time and time again, why are we not organizing a state administered fund for our school insurance when it is very predictable how many claims will be in the course of a year and when, as has been pointed out, we have been paying in many, many times more in premiums than we collect in the course of a year.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Vassalboro, Representative Mitchell, that the House accept the Majority "Ought to Pass" Report.

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

Representative CASHMAN: Mr. Speaker, under Joint Rule 10, I request to be excused from this vote.

The SPEAKER: The Representative from Old Town, Representative Cashman, wishes to be excused from this vote pursuant to Joint Rule 10 and House Rule 19 and the Chair will grant that request.

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

ROLL CALL NO. 356

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bell, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Donnelly, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Garland, Gean, Goodridge, Gould, R. A.; Graham, Gray, Hale, Handy, Hastings, Heeschen, Heino, Hichens, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Kilkelly, Kontos, Larrivee, Lawrence, Lebowitz, Lemke, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, O'Dea, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Richardson, Ricker, Rotondi, Rydell, Saint Onge, Salisbury, Savage, Simonds, Skoglund, Small, Stevens, A.; Stevens, P.; Stevenson, Strout, Tammaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth.

NAY - Bailey, H.; Bailey, R.; Barth, Bennett, Daggett, Duplessis, Foss, Greenlaw, Hanley, Hepburn, Ketterer, Kutasi, Libby, O'Gara, Pines, Reed, W.; Spear, Whitcomb.

ABSENT - Adams, Bowers, DiPietro, Gurney, Gwadodsky, Hichborn, Marsh, Richards, Ruhlin, Sheltra, Simpson, Swazey, The Speaker.

EXCUSED - Cashman.

Yes, 119; No, 18; Absent, 13; Paired, 0; Excused, 1.

119 having voted in the affirmative and 18 in the negative with 13 being absent and 1 excused, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (H-1143) was read by the

Clerk.

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

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I understand that there is a proposed amendment to Committee Amendment "A" and I would hope that somebody would move to table this matter until that amendment is before the House.

On motion of Representative Mayo of Thomaston, tabled pending adoption of Committee Amendment "A" (H-1143) and later today assigned.

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

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 1738)

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Distribute General Purpose Aid for Local Schools for Fiscal Year 1992-93" (H.P. 1740) (L.D. 2427) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1738)

Report was read.

Representative Chonko of Topsham moved that the House accept the unanimous Committee Report "Ought to Pass."

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: This bill is part of the good news maybe for most of us. The Committee on Appropriations and the Department of Education and the Committee on Education all have been working on this General Purpose Aid and, as you know, you have received a printout of the financial aid for fiscal year 1993. This now will cancel all of those things that went out for 1993 and you just have to look at column one on that list you have because that will finance all the schools to the same exact tune that they were financed in fiscal year 1992. It will make a significant difference in many, many communities especially in the larger cities like Portland, Lewiston, Bangor and Augusta, which will be hundreds of thousands of dollars difference because they were able to come up with an additional \$10 million rather than funding at 505 level, they were funding at the 515 level and this is the way this works out. The deficit has not been touched at all in this. That will remain the same and protected.

I think this is a great resolution to one of the big problems. The purpose of getting it out now is so that the superintendents and school boards in municipalities can get this as early as possible and know exactly what they are going to have. This has pulled out of the budget and run for this purpose so we can serve better the municipalities and the schools of the state.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

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

My question is, does this freeze the school funding at the subsidy from last year, thereby using the property valuation from the previous year instead of this year's property valuation?

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

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: One of the bad features of this is we left last year the funding formula considerably when we dealt with the school funding formula and this just continues what we did last year. For example, Kittery will get \$26,900 more through this move that we are making today but it still is not going back to the pure formula that we have. That is a shame but that is the only way they could deal with it because of the tremendous deficit that the state has had.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: If I understand the answer I got to that question, the towns that would be decreasing in valuation this year, even though the good Representative from Stockton Springs said Kittery would be receiving more, if they used the formula we would even be receiving more than that because our valuations are decreasing after we have seen six years of increasing where we have lost all our school funding under the formula. For that reason, I will ask for a roll call, Mr. Speaker, and I urge you to oppose the acceptance of this because, again, it goes against those towns that have been hurt over the last six years by the school funding formula to allow them to recoup their losses.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I do not disagree with the last statement. However, taking the gravity of the situation, a local school system getting as near to last year's subsidy amount as possible is the best way to go.

Friday night at five-thirty, I took the liberty (with the permission actually of the Appropriations Committee) to ask for a short but respectful committal service of the school funding formula for we have killed it. It is dead. If we try to use that formula right now, you will have such large losers and such large winners that the winners will cheer the very demise of the losers because, I will tell you, one small town that I have in my district would lose \$259,000. That formula is as dead as dead can be.

I believe that we are going to have to put our collective heads (any of us in this body who will be serving in this body next time) together to come up with a new plan that will address many of the concerns that people in southern Maine have. I think it can be done but for this year I can't urge you strongly enough to approve the awarding, because that is just what it is, awarding, of those dollars as near equal to this year's dollars available from the state as possible as a way to get by this year. Let's start talking about evening the thing out next year because there is no other way that I can see to do it. I am not all knowing or I certainly wouldn't

be here but I have put a lot of time on this over a period of time, in fact I put a life into this thing called funding of education, and we have no way to distribute this money today folks except, in my opinion, to come as close to that dollar value that those systems got last year. It is the very level best that I know how we can do it.

I urge you to support this distribution. I think for us to fail this, if we wallow around with this problem very long, many, many teachers will receive a notice that their employment is ended because you have an obligation to notify them and give them proper notice. I am telling you, if we don't solve the problem, superintendents of schools and school boards will have nothing to do but adopt a defensive position, assume the very worst, and I think a lot of valued teachers will walk the line needlessly. I can't urge you enough to support this.

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

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

Could someone answer the question of who is going to come up with this new formula? I understand what the good Representative is talking about but I would hate to be here on the 18th of March next year when this same piece of legislation is up when the towns and cities are debating and we hear the same thing we need to pass this because they have got to know what the budget is. Can someone in this body tell me who, whether a committee, a commission, a department, who is going to come up with a new formula?

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

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: We studied the funding formula in 1987, 1989 and 1991 — there are many states in the United States that have had to go through a legal process of being unconstitutional for their funding formula. As bad as ours is or as bad as some of you think it is, we are still one of the better systems in the United States. It is far from perfect and should be altered when times are right but at this point in time, this is, we believe, the most equitable way of resolving a problem of General Purpose Aid.

I hope you will go along with this bill and make practically every superintendent and school board in the State of Maine very happy.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: I understand that this bill is a compromise, I understand the politics involved, but the point is very simple, if the school funding formula is such a good funding formula, why aren't we using it? Why are we freezing it at last year's value? If we are afraid of towns losing \$200,000, why wasn't this body afraid when the town of Kittery and the town of York and the town of Wells and the southern Maine towns lost \$200,000 in 1984, again in 1985, again in 1986, again in 1987 — why weren't people afraid then when we were impoverished under this formula? Why when the formula now taking into

current property valuations is working back to make that distribution more fair — why do we say freeze it? That's what I can't understand, if this is a fair formula, why do we not let it work?

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I have not heard the answer. Is somebody going to be coming up with a formula that is going to be fair or are we going to go along with the same idea year after year? Those towns that have lost through the formula just want to know that answer. Who is going to come up with this new formula? If it's that we can't come up with a new formula because it is just as fair, then what is going to happen next year? Are we going to have the same piece of legislation?

The SPEAKER: The Representative from Portland, Representative Manning, has reposed his questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Ladies and Gentlemen of the House: I concur with a lot of what the good Representative has said but Representative Manning from Portland has asked a question and deserves an answer. There have been people who have been working to come up with a new formula. I have met with several members of the Portland Delegation and the good Representative Norton has offered his time and I believe he is probably one of the few people that truly understands this formula so I think that in answer to your question, there are people working on it, we want a change, we know that it is not fair and we intend on doing something about it.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I concur with what Representative Kerr has said but I want to go a step further. I am going to urge this state, it is a concept right now, buy it or not buy it, but I think the only way out of the dilemma that faces is to have an education tax. I believe that it has got to be based on that part of the money we need to raise over and above what the state is now providing. The state is in there at about 54 or 55 percent right now, the rest of it comes from property tax. The best relative gauge of value is still the value of property but that is not a gauge to measure the ability of a person to pay that tax. Therefore, if we would raise money dedicated to fund education statewide, raising from the general coffers of what we do now and placing an assessment on the property value for the remaining amount and then fund the circuit breaker 100 percent that cuts that tax off when it reaches a certain percentage of your income, then we could allot the equal dollars behind every student in this state.

I think we can leave with local school committees the key to what I think they need to control and that is the hiring of teachers and the selection of a curriculum. I think that that will give us taxpayer equity and student equity. I think that our problem then will shift to one called assessment, how to uniformly assess property. But, if we were to put our heads to solving that problem to the extent that we have of criticizing the

present or late formula, then I believe we can solve it. I think Maine can have equity second to very few, if any, state in this country. It will be only when we decide to fund it that way that we will avoid arguments that we are having. I would rather say discussions for I think all of our hearts are in the right place.

I sympathize with that problem and I believe an answer has to be forthcoming. That formula, when we made the three adjustments in it in the past two years, it no longer works to distribute money equitably. I really am serious when I say we should bury that one. I think what I am proposing is so far different from what we had in 1974, and it is at a conceptual level, and therefore all our ideas are needed.

I answered several letters today explaining questions about the concept which I have written on a paper that will never be memorized by junior classes or anything but I think it is pretty good and I think it will answer this problem. You've got to start thinking of education as a state responsibility. The state must fund education. Locals can decide their curriculum, let's get off the mandate kick, they hire their teachers and that is the most important element in an education. Those local school committees, if they would handle that and we would put the money out on a per pupil basis, we would do a lot to further the cause of education in the State of Maine and to answer Representative Manning's question and some of the rest who have raised very valid questions.

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

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I must admit that at this point in the debate, I am tempted to vote with the Representative from Kittery, Representative Lawrence, simply because I think he has asked a fair question which nobody has responded to. I understand all the rhetoric in the search for this formula which will solve everybody's problems in the interest of fairness. But, if I understood his question, it is directed solely to why that can't be put through the formula for this year so we know what values do. It seems to me as though that is a fair question. It also seems to me that there ought to be enough expertise in the people on Appropriations and Education to indicate to him at least to the general basis what that effect would be. It also seems to me that probably he has some ideas and I would like to hear some answers to his particular question which seems to me a fair one.

The SPEAKER: The Chair recognizes the Representative from Topsham, Representative Chonko.

Representative CHONKO: Mr. Speaker, Men and Women of the House: I don't know if I can respond to all the questions that have been brought up here today. All I can speak to you on is the Appropriations Committee's actions. When we received the budget document, we were being cut by \$10 million dollars for General Purpose Aid to Education. We have chosen not to take that cut — how we are going to pay for it, I don't know. What we have here today is a document that allows us to know whether or not you want us not to take the cut in General Purpose Aid or to take the cut in General Purpose Aid. That's all this is going to do today.

The formula that was established was done by the Education Committee. The Appropriations Committee

does not set up the formula and I can understand and appreciate the feelings of the gentleman from Kittery. I know that you have been losing for a long time but \$10 million dollars is not going to change that. When you think about how much \$10 million dollars is out of \$500 million dollars, it is not a heck of a lot to put back in the formula. Our main interest and concern was to try to prevent people from losing more money next year than they lost this year and this is why you have it.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: It just seems to me that a year from now, we will be having the same debate, we will be talking about the same issues and this formula isn't something that can be created in a very short period of time. I would hope that on this bill there will be an amendment that somebody would come up with that would create — either the Department of Education or the legislature or somebody to come back to the 116th Legislature in January where we can debate this early on on what the new formula would be instead of just saying, well we think it is going to be this or that and all this stuff. I would think that this legislature would want to say to the 116th Legislature, come back with a new formula because I don't hear that, I really don't hear it. I heard that maybe some bills might be introduced but we all know what is going to happen with bills being introduced in the 116th. This particular idea might get put off until May or June and I don't think we want that. If we want to talk about a new formula, I think we ought to have a commission, a study group, make the department do it, I don't care, make the department in the School Management people do it, have somebody do it but let's not have this debate a year from now and say, well, there's a bill in the hopper and we will begin looking at it but we need this because we've got town meetings. I agree we have town meetings and I agree that we are going to be laying off teachers if they know but I am almost saying, I will buy a year to know what next year is going to be about. I would hope that we would come up with that idea, whether it somebody on the Education Committee or somebody on the Appropriations Committee or somebody would come up and say, we're going to have a commission and we are going to come back in January and we are going to have a new funding formula so that we all know. If the old funding formula — I don't know why, it worked great for those towns that were having all kinds of money and then all of a sudden when it started losing, oops, it is no good. I would hope that we would have a funding formula January 1st so we all know what the new one is.

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

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me that the original formula, flawed as it may be, is still the way to go. I only understood that we modified the formula for the purpose of filling a particular hole in helping out school district who had already planned on different amounts of money for the fiscal year that has just gone by. Now we are looking forward to what is going to happen next year. The only intent of this bill is to tell everybody what is going to happen next year so why can't we tell

them that we are going to still use the existing formula? I understand that some towns are going to be hurt and some are going to be benefited but, if that formula has been fair for the last decade or more and now suddenly we scrap it because we say that it is unfair, it seems to me an inconsistency in the argument of those who stand to raise in support of this bill.

One thing I concur a hundred percent in with Representative Manning is that you should know next January or February at the very latest what is going to be the formula next year. If you are going to change it. I do agree that the formula needs changing to include income factoring which can be done now with an income tax, it is done in many states where income and property are factored into the formula, there are all kinds of different methods that can be used. I think this bill, as it is before us, needs an amendment (if you are going to support it) as to what is going to happen between now and January of 1993. I don't think it should be left to individual legislators to come up with that proposal. I think somebody that we can rely on should review it and come up with it. There may be all kinds of studies, they can check those out and gather one and say, this is the best from all of them. I don't want to use the Blue Ribbon Commission but I do think that something of that magnitude deserves study.

I question seriously why are we again modifying the school formula bill?

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

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

The SPEAKER PRO TEM: The Representative from Fryeburg, Representative Hastings, has posed a question to anyone who may respond if they so desire.

The Chair recognizes the Representative from Boothbay Harbor, Representative Heino.

Representative HEINO: Mr. Speaker, Men and Women of the House: If you think we are going to be sitting here a year from now with a new school formula, I doubt it very much.

The good Representative from Fryeburg said we ought to have a formula that included income and those types of things — I might remind you that a year ago I had such a bill in here that would have taken three things into consideration in establishing what a community got for its educational funding. They would have been cost of living, income and property taxes, equally distributed and used in the formula. You don't recall any discussion on the floor about it, do you? It came out of committee unanimously "Ought Not to Pass."

The educational formula that we use here in the State of Maine and in other places in the United States are so complex that if we were to have a new formula for next January, someone should have

started yesterday on it and I doubt very much if that has been done. There is a new report coming out from the State Department of Education suggesting some minor changes but these are not major changes in the formula, not major at all.

I agree and I concur with Representative Lawrence, if it was good enough last year and the year before and the year before that, then why isn't that formula good enough today to continue using it? If it is dead, what are we going to replace it with? While we still have a fragmented formula, let's use it.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I have a lot of sympathy for the points raised by Representative Lawrence because I totally agree with him about the flaws in the formula as he well remembers from the debate we had in December over the plight of low receiving districts. At this point in time, the formula would appear to be starting to work for them as opposed to the past.

This proposal before you is simply a mechanism to restore \$10 million dollars in General Purpose Aid to schools throughout the state. It was also designed to avoid the very debate we are having right now between high receiving and low receiving districts. One piece of information that we had the opportunity to see, as did members of the Education Committee, was a printout requested I believe by the Speaker to see what \$505 million dollars in the original budget proposal would look like distributed under the formula. It was a bizarre printout, 75 percent of the towns and cities in the Maine would have been hurt under that. Some of them with 50 percent cuts, one, I can't find it on my desk, but as I recall the city of South Portland would have gone from \$2.6 to \$1.4 million because the formula is dead. It doesn't work anymore. When we went backward in time, instead of basing it on year old costs and reimbursing what the districts had, instead of doing that, when we went backward and cut that amount, that particular formulation does not work anymore.

The State Board and the Commissioner, as I understand it, are working on and the State Board recently announced its intent to develop a new formula and are committed to that. I believe it is working with the Committee on Education. I fully support redoing the formula but this is not the time. This proposal restores communities across the state to what they are receiving this year. Every single community in this state will benefit. There were a few that were on the printout, which we all received on February 19th and was distributed to superintendents throughout the state, a few of the very low receivers who are on the floor with very minimal amounts and would actually have been hurt under flat funding. We even grandfathered those so that everybody in the state, with the infusion of \$10 million dollars, would benefit. I recognize that it ignores valuation but it also ignores those who have had increasing or decreasing enrollments, it ignores those who have bought buses or not bought buses or those who have made other commitments. It does preserve debt service totally outside. I think it is a commitment that all of our communities, if they have debt service, are bound to fulfill.

This is simply making a statement that this

legislature believes that General Purpose Aid is a top priority and that we are willing to put \$10 million dollars back into it and every town and city will benefit.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I rise I guess because if you will recall earlier in the session when we divided the money up before, South Portland was hit very, very hard. As Representative Foss just explained, the printout I saw, in addition to what we lost a few months ago, we would lose another additional \$1.4 million dollars. My city just can't afford to lose another \$1.4 million dollars. As I told then, we had laid off 24 people, things haven't gotten any better since then I will tell you right now. As far as I'm concerned, I applaud the Appropriations Committee for the position they have taken, I don't think this is the time to discuss the formula. I think the formula is something that perhaps should be put out to some kind of a committee, I don't know who. I have been here 12 years and I have argued against the formula for 12 years because I think some of us are treated unfairly but I don't think this is the time or this is the bill to talk about redoing the formula. We only have another week but I applaud the committee because, very frankly, I can go back to South Portland and at least I can say that we didn't get cut another million dollars. At least we have the same amount that we had a few months ago.

I hope you will approve the Order.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I have a brief comment and I have a question. My comment is, if I understand this correctly and the reason I say I have a question at the end is that if anybody says I am incorrect, please stand up and correct me, somebody from the committee, someone from Appropriations or Education.

Last time we had this issue before us, we had two packages. One package was a manipulation of the GPA and it was a revamping of it. Members of the committee felt strongly that they were helping out districts and I applauded them for their efforts but I didn't support them. What I supported was the other version which was taking the General Purpose Aid formula and cutting it by 3 percent, if I remember correctly. To me, that was the debate we should have had. Shall we create a new formula for a one-time cut or should we take the current formula that everybody has been living under and make a cut commensurate with the fiscal situation that we are in? If I am correct in that, then what I understand today is that we also have two options or at least we have one option in front of us and one that might come up.

The option we have before us, and if I understand correctly, the Education Committee voted unanimously in support of this and Appropriations is unanimous or virtually is unanimous, we are taking the current formula and making zero percent cut, increase or decrease. The alternative I heard, either through posing questions or speaking in debate, is that we need to reinvent the formula.

Once again, I know how I am going to vote, I am not going to vote to reinvent the formula for a one-time cut. I am supportive of changing the formula, I don't like it the way it is now and I think the concerns of Representative Lawrence and Representative Manning have raised are vital concerns. They need to be dealt with in the deliberate discussion of committee work and the legislative process, not on the floor through amendments to amendments to bills, not as last minute no votes on proposals that are in front of us that use the current structure and certainly not with less than 20 days left in the session. So, for me the answer is clear, you take the current formula, the good and the bad of it, and you have flat funding. I can understand that, I can go back to my district and say, we are tight fiscally, let's go with what we have from last year. Does that mean it is going to be a cut or not a cut? It means a cut because as we all know, costs go up, and we are still going to have to cut. I can rationalize that better than I can "we invented a new formula and this is what the printout showed" — the battle of the printouts. I don't want to have that discussion here so I am happy to support the Committee Report, I am happy to support both Appropriations and Education Committees on this report and I would hope that the rest of the body would go along with it.

I would ask for a roll call, Mr. Speaker.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I concur with Representative Boutilier and Representative Foss has said that we know we are deep trouble whether it is Human Resources or Mental Health or Corrections or AFDC, ASPIRE, or Education. We are cutting the living daylights out of everything because we have to. In education, normally in 1992 we wouldn't have had to cut that \$71 million nor in 1993 the \$130 million so that everything is out of whack and there is nothing that we can do about that.

To say that the Education Committee and the Appropriations Committee and the Department has done nothing, I don't think is fair.

We had a commission in 1991 to study the school formula, we brought in a fellow named John Ogenblick who is considered the most knowledgeable person in the country on formulas and he sat down with us, went over it and surely there are a lot of problems but we are not going to resolve them while we have this horrendous deficit and this great problem on this emergency.

I hope you will go along with it and I wish some of you would take out the sheet that was delivered to you on February 19th and look at them and look at column 1 and that is exactly what you get in your funding this year. I called five superintendents yesterday and they all said, thank God, and now we can get at our business and we will have enough money to run our schools even though we have made many cuts.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: In plain, common sense all this piece of legislation is saying is, do you want us to restore the \$10 million dollars? Yes or no!

The SPEAKER PRO TEM: The Chair recognizes the

Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Men and Women of the House: I think to put this very simply, let's not look a gift horse in the mouth. It is not everything we want in terms of adjusting the formula but I think that will come. It certainly will come with those individuals who have spoken with respect to adjusting the formula or revamping it totally.

Unlike the last time we had this go-round, many of us were divided. Some of us were willing to take cuts for our communities. I wasn't then and I am not now. I hope this legislature will support this effort to make whole to the 1992 level those school committees that face drastic cuts.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: As I read this amendment, it doesn't exactly say we are just filling the budget of \$10 million of the hole. It goes on to say that regardless of the formula, everybody in this state will get the same amount of money that they got last year. There is not to be any variations even though your population of school students go up or down or your valuation goes up or down. As I understand it, we are basically saying, whatever you got last year under the modified formula that came out of the vote of this House, whatever the amount of money that was, your district, your school, city or town will get the same amount that they did last year. If I am correct, then we have scrapped the school formula and we have just said we don't care what the formula says, you got x-dollars last year, you will get X-dollars this year. If that is what it is, we have scrapped the formula, we are looking now with no formula and we ought to be at least addressing the issue in addition to this, maybe not under this bill, but somehow that we are going to have a formula and not just have flat funding indefinitely.

Representative Norton of Winthrop was granted permission to address the House a third time.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I knew that Representative Hastings was probably going to get up and say something like that because he never did get his answer when he said that we did have a formula and he is right in the past tense, but what happened to it — and a fragmented one is better than none — you have such a fragmented one that to resurrect it so that it would deliver money back out to the communities on an expense driven basis, if you can imagine it in these times, it would take \$630 million to \$650 million. We have \$515 million after the Appropriations Committee graciously raised that extra \$10 million to award.

We have to forget what we had because when we made the three changes in it over the past two years on a percentage, a mill rate and then a combination of the two, you completely took the equity factor out of the formula. It is not there. I am saying it is time for this state, in 1992, to put forth a simple idea which I am willing to help advance and with all our collective help put together a fact and not a promise in the next legislative year for we have no alternative. We don't have anything behind us to distribute money on. There is no basis to make the distribution.

I guess, in theory, I am most like I was yesterday, today. I believe that is how it is with

school budgets. They are most like they were yesterday or last year if we give them the same thing this year. It is the best thing that this body can do to help children work in an atmosphere where at least we salvage as many of the resources for their education as possible and this seems to do it. If you wanted to go back to that formula and make all the changes in reverse and you are willing to put \$630 million to \$650 million into it, then you can have that formula as projected from two years ago when we started to wreck it.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: Do you know what it is like to sit as a member of a school committee and try to recall the tragedy that hit us in the past 12 months? We have short memories. We had an identified crisis about 12 months ago and it could not be resolved except by making these cuts and dividing this whole body into sections, into — I will use the word "vested interest" but I use that with kindness. We fractured the very thing that we tried to develop here in understanding each others problems and resolve them. It was a very unpleasant situation. Go back to the crisis that we went through just this past year, none of us want to go through that again.

Step one, they came up with a plan. We addressed it as members of the community to get the best educational opportunities to our youngsters. Within three weeks, that step one was gone. Now we have an additional crisis, step two. Then they did the same thing for step three, complete uncertainty. Demoralized several systems that were trying to address the best possible education for our youngsters.

Today, the responsible school Education Committee, the responsible Appropriations Committee has come up with a plan. Why can't we address the short statement that was made by Representative Pouliot? Do you want to resolve this situation and know where you are going so you don't have step one, step two and step three to go again?

I presented my superintendent of schools just this past Monday (as chair of that committee) the formula that was given to me by Representative Handy. I gave it to my superintendent and he looked at it and said, it doesn't mean a thing. We are reiterating that again right on the floor of this House, it doesn't mean a thing. Why can't we address the crisis that faces us now with a resolution as has been presented by the responsible committees, the Education Committee and the Appropriations Committee. Something has to be done now so that we can plan on preserving the very thing that we find most near and dear to us, the education of our school children in a credible way.

There is stability to this resolution that is presented here today. If this passes, I can go to my superintendent of schools and say, aha, now you can depend on something that you can plan on. I have no problem in understanding what they are trying to do. Let's not bring up the fracturing situation and the crisis that we had to go through this past six months.

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

Representative RYDELL: Mr. Speaker, Men and

Women of the House: There are a couple of points that I think are very important for you to know and be able to take home to your towns and particularly to your school boards and superintendents. The first is, I want to reiterate what the Representative from Yarmouth, Representative Foss, said that debt service would be based on cost attributable to 1992 and 1993. So, those districts that have additional debt service cost because of new construction would be protected. There is one other area of protection that could be extremely important particularly for small towns and that is state agency clients and state wards. We have also protected those costs, they will be based on actual fiscal year 1992-93 costs so that if the state should place a foster child in a community in the course of a school year that has every expensive education costs, if there is a state agency client in your district that you don't know about now that wasn't figured in last year, then your town will be protected and those costs will not be based on this year's costs but on the next fiscal year's cost. That is very, very important and can be very important particularly for small towns where the addition of one child with very expensive education costs can completely change the school budget. So, we have tried to protect that area which in the past has been a bone of contention at many town meetings.

It is true that we are most like what we were yesterday, tomorrow. I come from a town that has a very volatile school district. Because of the Brunswick Naval Air Station, we sometimes have a turnover of 10 percent, 20 percent of our school district. We don't know whether the Navy is going to send families with children that are pre-school, kindergarten, sixth graders or high school age. We don't know how many children, we don't know in what age range they will be or what grade. We often don't know until the day school starts. But when we look at it from year to year, it actually isn't very different. The actual children will be different but the numbers will not be that different and the needs will not be that different so we feel that we can get by for this one year as long as we know now what it is that we will base our school budget on. So, you can go home and say, this is what we will base our school budget on provided also that we can agree on this today and know that the next step for the Appropriations Committee is to make sure that we can secure that additional \$10 million in funding. We wanted to have the sense of this body, we wanted the vote of this body behind our efforts as we go downstairs this afternoon and tonight and tomorrow and make sure that we can provide that \$10 million so we can assure our school districts that they will not have any less next year than they have this year. That is the message that we want you to be able to take home. That is why the Education Committee and Appropriations Committee worked out this arrangement carefully with the department, that is why this bill is before you. Now it is up to you to decide what is the message that you want to go home with.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: As we can tell by this debate, there are no perfect ways to distribute General Purpose Aid because of the modifications made in the past. I hope every legislator in this body understands that a unanimous report on this issue out of both committees is very significant because the

membership of those committees represent both high and low receivers, those who have had valuation fluctuation and many other fluctuations in the past two years.

This proposal provides stability and continuity in state funding to every single school in our state. And, to vote no — it is very simple, if you vote no on this proposal that this additional \$10 million in GPA will not go out, there is no better way to funnel that \$10 million back to educating our children. Voting no simply means we will not be able to do it.

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

Representative KETOVER: Mr. Speaker, Men and Women of the House: I am going to say the old cliché, "I wasn't planning on speaking," but I feel compelled at this particular point to get up and support my good friend Representative Norton. I was just talking to him and I was explaining how I feel about the situation. I believe we should support the Education Committee and the Appropriations Committee on the flat funding.

Portland, as you know, was just valued and property taxes will be going up. This will affect us if we change anything right now. My concern, again, would be that we do not want to hurt any of the education process that is going on. To get what we are getting from the \$10 million and to keep it at that flat funding is a plus. We do not have the time at this particular point to start changing the formula because as far as I am concerned the formula is dead and has been dead.

A long time ago when I asked for a commission to study the school formula — at that particular time the commissioner thought it was a good idea and that is where that commission came from. I again applaud the Appropriations Committee and the Education Committee for finally putting it to rest. I also commend that we need to look at some new future thoughts. The thing that I have been talking about to many of my people back home — and I spoke about this at the MTA the other day — that we need to find a new system very similar to what Representative Norton was talking about and that would be to fund education, that every child in the state would get an equal education. That equal education would be a basic education and that would be funded and mandated by this state possibly with a 54 percent level.

Again, maybe we would look at the other part of it, the things that we do not consider basic education to go under property taxes. To me, that would be a fair way. I am not saying that is the way to go totally but maybe that is a start. Maybe Representative Norton's idea about putting a committee or a commission together should start now. We don't want to take that burden with us next time around, we need to do it now. We need to give our school boards and our people a way to plan so that they can do their budgets again next year. I would appreciate and I certainly applaud them again and support the Appropriations and the Education Committees and go forward with this. I think we have discussed this quite thoroughly.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I think there is one other thing that should be said about this. The fact that this is before us now in this fashion is making a

statement, a statement that the Education Committee strongly wanted to make. I congratulate and applaud the Appropriations Committee for certainly feeling the same way that education is a high priority that perhaps in the long run, I feel, the number one priority of this state. I think by voting for this we are making that statement.

The other thing is between the State Board of Education, the Department of Education, the Education Committee and all other interested parties this time next year or earlier in the year next year, there will be a new way to fund education that is fair for all people. I certainly pledge my support for that and I know many others do.

I urge your support for this.

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 Chonko of Topsham that the House accept the "Ought to Pass" Committee Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 357

YEA - Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, H.; Constantine, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gwadosky, Hale, Handy, Hanley, Hastings, Heesch, Hepburn, Hichens, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lebowitz, Lemke, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nash, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Poulin, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Rotondi, Rydell, Saint Onge, Salisbury, Savage, Simonds, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Tammaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, Whitcomb.

NAY - Adams, Coles, Heino, Lawrence, Plourde, Rand, Richardson.

ABSENT - Bell, Bowers, Clark, M.; Gurney, Hichborn, Marsh, Nadeau, Powers, Ruhlin, Sheltra, Simpson, Swazey, The Speaker.

Yes, 131; No, 7; Absent, 13; Paired, 0; Excused, 0.

131 having voted in the affirmative and 7 in the negative with 13 being absent, the Committee Report and accepted, the bill read once.

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

Representative Manning of Portland moved that L.D. 2427 be tabled one legislative day pending

passage to be engrossed.

Representative Manning of Portland requested a roll call vote.

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.

At this point, Speaker Martin resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Manning of Portland that L.D. 2427 be tabled one legislative day pending passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 358

YEA - Adams, Carroll, D.; Clark, H.; Coles, Daggett, Dore, Gean, Goodridge, Gray, Gwadosky, Hale, Heesch, Heino, Hoglund, Joseph, Kerr, Kilkelly, Kontos, Larrivee, Lawrence, Lemke, Mahany, Manning, Mayo, McKeen, Michael, Mitchell, J.; Nadeau, Nutting, O'Gara, Paradis, P.; Pineau, Plourde, Rand, Richardson, Saint Onge, Simonds, Skoglund, Stevens, P.; Treat, Wentworth.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Butland, Cahill, M.; Carleton, Carroll, J.; Cashman, Cathcart, Chonko, Clark, M.; Constantine, Cote, Crowley, DiPietro, Donnelly, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Graham, Greenlaw, Handy, Hanley, Hichens, Holt, Hussey, Jacques, Jalbert, Ketover, Ketterer, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Marsano, Martin, H.; McHenry, Merrill, Michaud, Mitchell, E.; Morrison, Murphy, Nash, Norton, Oliver, Ott, Paradis, J.; Parent, Paul, Pendexter, Pendleton, Pfeiffer, Poulin, Pouliot, Reed, W.; Richards, Ricker, Rotondi, Rydell, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Strout, Tamaro, Tardy, Townsend, Tracy, Tupper, Vigue, Waterman, Whitcomb.

ABSENT - Anthony, Bell, Bowers, Gould, R. A.; Gurney, Hastings, Hepburn, Hichborn, Marsh, Melendy, O'Dea, Pines, Powers, Reed, G.; Ruhlin, Sheltra, Simpson, Swazey, The Speaker.

Yes, 41; No, 91; Absent, 19; Paired, 0; Excused, 0.

41 having voted in the affirmative and 91 in the negative with 19 absent, the motion to table did not prevail.

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

By unanimous consent, was ordered sent forthwith

to the Senate.

The following item appearing on Supplement No. 4 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. 1698) (L.D. 2378) Bill "An Act to Eliminate Mandatory Minimum Sentences" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1144)

On motion of Representative Boutilier of Lewiston, was removed from Consent Calendar, First Day.

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

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair to any member of the committee. I would like to ask what the problem was that was trying to be resolved by this bill?

I see from the Committee Amendment that three items were taken from the original bill, items dealing with dissemination of sexual explicit material to minors, aggravated drug trafficking or furnishing the use of fire arms. Why were these removed and why was the original bill up for any changes?

The SPEAKER: Representative Boutilier 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 Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to my friend, the good Representative from Lewiston, these are not removed as the Statement of Fact indicates. We removed them from the bill in order not to eliminate them. They are part of the bill. Those are the most important parts of our mandatory minimum sentencing structure. Those remain unanimously by the committee vote to be part of the current law. We did not touch those at all. What we did was eliminate certain old outdated mandatory minimums that had no effect in which the prosecutors urged us to eliminate, they have never been used. I hope that assures my good friend from Lewiston that nothing in this has any concern or ought to have any concern with the issues that he is concerned with.

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

Committee Amendment "A" (H-1144) 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-1144) and sent up for concurrence.

The following item appearing on Supplement No. 5

was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Establish Consecutive Sentencing and Mandatory Minimum Sentences for Certain Persons Convicted of Gross Sexual Assault" (H.P. 1607) (L.D. 2269)

Signed:

Senators: BERUBE of Androscoggin
HOLLOWAY of Lincoln
GAUVREAU of Androscoggin

Representatives: FARNSWORTH of Hallowell
KETTERER of Madison
CATHCART of Orono
HANLEY of Paris
PARADIS of Augusta
COTE of Auburn
ANTHONY of South Portland
RICHARDS of Hampden
STEVENS of Bangor

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1145) on same Bill.

Signed:

Representative: OTT of York

Reports were read.

Representative Paradis of Augusta moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Men and Women of the House: I am a minority of one on this bill and I recognize the realities of that position. I have no illusions of its passage. However, I do rise to explain the bill because I think it is important to many, in fact I think it is important to all the citizens of Maine.

This bill provides for consecutive sentencing and mandatory minimum sentences for certain persons convicted of gross sexual assault. It applies for our repeat offender situation. Were a repeat offender to be convicted of a Class A gross sexual assault, the minimum sentence would be ten years, if it were a Class B, it would be seven years and for Class C, it would be five years. There is another provision, were this bill to pass, that would provide that if there were an undischarged term of imprisonment or (as I had anticipated) a multiple offense situation that there would be an imposed mandatory consecutive sentence for multiple offenses.

This bill was sponsored by me basically after a series of discussions and conferences with some people in my district who were concerned and in fact outraged over a very vicious and violent rape that occurred in the York area in July of 1991 where a young 15-year old girl, while riding her bicycle in mid-afternoon at approximately 1:15 was accosted by someone in an automobile. She was raped, stabbed,

buried in a shallow grave and left for dead. Her accused was a person who had been previously convicted of two vicious rapes, had served a prison sentence of ten years on two sentences involved, a concurrent ten year and a concurrent 15 year sentence. He was out in ten years and less than a year later committed this rape.

There was a good debate in our committee and this bill, along with another bill of elimination of certain mandatory minimum sentences, 2378, was referred to the sentencing institute which will meet, I hope, to discuss and continue the dialogue on the sentencing procedures in Maine. There were a number of people who worked hard on this bill and a number of people who wanted their voice to be heard as a result of this incident that occurred, not only for those people who live in the York area, but over 600 signatures on grass root petitions were circulated over 19 towns from Kittery to Westbrook in the County of Cumberland.

I do not ask that you follow my light. I do ask, however, that you think about this issue. One out of three women and one out of six men during the course of their life statistically will be the subject of a sexual offense. Our crime report that came from the Department of Public Safety that was on our desk last spring indicated that the reported number of sexual offenses from 1986 to 1990 has increased 38.5 percent and the crime clock indicates that every 36 hours and 21 minutes a rape will occur in this state. How many times must we pick up the paper to read that it involves a repeat offender?

I hope that this issue has raised a level of interest that can in the future lead to a meaningful deliberation of our sentencing of sexual offenders. On a broader scope, how we as a society intend to meet those needs with respect to our correctional facilities and the capacity in which they are administered.

I hope that we can bring an end to the headlines that may read "Freed to Rape Again."

Subsequently, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

By unanimous consent, all matters requiring Senate concurrence except those held were ordered sent forthwith to the Senate.

BILL HELD

An Act Pertaining to the Assessment of Fees on Nuclear Power Plants (S.P. 829) (L.D. 2133) (C. "A" S-610)

- In House, Passed to be Enacted.

HELD at the Request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby L.D. 2133 was passed to be enacted.

On further motion of the same Representative, tabled pending passage to be enacted and later today assigned.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: An Act Relating to Legislative Confirmation Hearings" (S.P. 894) (L.D. 2299) TABLED - March 17, 1992 (Till Later Today) by Representative GWADOSKY of Fairfield. PENDING - Passage to be Enacted which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Paradis of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 2299 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-1148) and moved its adoption.

House Amendment "B" (H-1148) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" (H-1148) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-1136) - Committee on Taxation on Bill "An Act to Allow Municipalities to Appeal the New State Valuation" (EMERGENCY) (H.P. 1692) (L.D. 2372) TABLED - March 17, 1992 by Representative MARSANO of Belfast. PENDING - Motion of Representative CASHMAN of Old Town to accept the Majority "Ought Not to Pass" Report which was tabled earlier in the day and later today assigned pending the motion of Representative Cashman of Old Town that the House accept the Majority "Ought Not to Pass" Report.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Cashman is not here tonight but he indicated to me that he would entertain an amendment on this to take care of the two towns that have the problem that we want to take care of. Therefore, I wish you would vote against this motion so we could go on to get this amendment on there to take care of those two additional towns.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Old Town, Representative Cashman, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

5 having voted in the affirmative and 72 in the negative, the motion to accept the Majority "Ought Not to Pass" Report did not prevail.

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

Committee Amendment "A" (H-1136) was read by the Clerk.

Subsequently, Committee Amendment "A" (H-1136)

was indefinitely postponed.

The Bill was assigned for second reading, Thursday, March 19, 1992.

The Chair laid before the House the following matter: Divided Report Majority Report (11) of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1142) on Resolve, to Establish a Blue Ribbon Commission to Examine Alternatives to the Workers' Compensation System and to Make Recommendations Concerning Replacement of the Present System (H.P. 1696) (L.D. 2376); Minority Report (2) of the same Committee reporting "Ought Not to Pass" on same Resolve which was table earlier in the day and later today assigned pending adoption of Committee Amendment "A" (H-1141).

Subsequently, Committee Amendment "A" (H-1142) was adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1142) and sent up for concurrence.

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

The Chair laid before the House the following matter: Divided Report Majority Report (12) of the Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1143) on Bill "An Act to Allow Elementary and Secondary Schools to Obtain Insurance Coverage through the Risk Management Division" (H.P. 1449) (L.D. 2061); Minority Report (1) of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" (H-1143).

Representative Libby of Kennebunk offered House Amendment "A" (H-1156) to Committee Amendment "A" (H-1143) and moved its adoption.

House Amendment "A" (H-1156) to Committee Amendment "A" (H-1143) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: The basic rationale on this amendment is the way it is set up now this Bill, L.D. 2061, does not allow the state to abide by the same laws, rules and regulations that an insurance agent would have at home. We mandated that anybody who wanted to sell insurance or advise about insurance must take and pass license exams and they were very, very difficult because we were concerned that merely being licensed as an insurance agent, broker or consultant wasn't enough protection for the Maine people. It was only a few short years ago that we passed a law to say that those licensed professionals could only renew their licenses if they took a minimum of 30 credit hours of education every two years.

The way this bill is set up is it really doesn't make much sense and it would probably set a dangerous precedent for us to tell the Risk Management Division, which this is under, to go ahead to sell and service insurance to schools and other non-state

entities but don't bother with the laws, rules concerning ratemaking, claims reserving, professional licensing and continuing education, capitalization, investment practices and everything like that.

In essence, this bill would require the state to abide by the same laws, rules and regulations that the independent insurance agents have out there.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I would like to advise the members of the House that the reason that the fund is set up as it is is that public funds are governed under another title of our statutes, it is Title 30. I will share it with you, it is in the book, I don't have it with me at the moment but they are governed under Title 30.

To do what Representative Libby wants to do should require a large fiscal note because we have been advised by the Risk Management Division that they would have to hire three more staff people and for what reason? We can accomplish the same thing by requiring actuarially sound accounting and that is exactly what the bill does. This is really unnecessary.

The fundamental thing that Representative Libby's amendment does — and I want you to read it — it says that schools are out of the ball game. As you recall, the original purpose of this bill was to allow schools the option of purchasing their insurance from the Risk Management area.

I would move indefinite postponement of this amendment and encourage all of you who supported giving schools that option to join me in that vote.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: Adoption of this particular amendment will obviate the essence of the savings that could be realized, which is the intent of the bill. To be different in this case is necessary in order to get those savings.

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

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I had occasion to visit with a member of the Attorney General's Office this afternoon before we came into session, who has worked long and hard on this issue and worked with the Banking and Insurance Committee on this issue. The independent insurance agents of Maine ran this amendment by the administration and the administration sent it to the Attorney General's Office for comment. The Attorney General's Office felt, first off, there is no chance for any school savings and that this should have a fiscal note on it. The Attorney General's Office also felt that if this amendment is adopted — remember from this morning's debate, the Maine Risk Management Agency provides insurance coverage to many different organizations, foster homes, etcetera, that cannot find insurance anywhere else. The Attorney General's Office is of the opinion that if this amendment is adopted, it places such strict requirements that these organizations that can find no insurance anywhere else will not be able to even find insurance from this organization. So, I hope you will all agree unanimously to indefinitely postpone this amendment.

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

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: As a cosponsor on this bill for two years in a row, I want to stress to you how important this bill is to schools. There is nothing unusual about it. It is the way Maine Maritime insures themselves and it is the way the University of Maine is insured. It will simply provide a great deal of savings and this is all taxpayer dollars whether it comes from property taxes or from the money that the state sends, it is paid for with taxpayer dollars. Please allow the schools to have this option.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Libby.

Representative LIBBY: Mr. Speaker, Members of the House: It would seem extremely strange to me that we would allow a department of the state with no background, with no rules and regulations to guide them, with no schooling, it would mean from what I can glean here that about anybody can sell this insurance because there are no rules, no regulations. How do we know that we can save money for the schools themselves if we don't have any guidelines to work with? It seems to me that we are asking for a lot of trouble. I don't know why — I believe that 24-a is the article that we are making reference to. I don't know why we shouldn't come under that article.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: I will be very brief. My seatmate was concerned I was going to read you the entire statute, I won't. I will refer you to Chapter 117 under Title 30-a, it is simply incorrect to say that the Risk Management Division would operate this program with no rules and regulations. They are governed by the law that governs public self-insurance funds. They must report to the Superintendent of Insurance, they simply must comply with actuarial sound principles. All of those things are in place and it is really a misunderstanding. So, in lieu of reading this to you, I will share it with you.

Representative Lemke of Westbrook 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 Mitchell of Vassalboro that House Amendment "A" (H-1156) to Committee Amendment "A" (H-1143) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 359

YEA - Adams, Anthony, Bell, Boutilier, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine,

Cote, Crowley, Daggett, Donnelly, Duffy, Dutremble, L.; Erwin, Farnsworth, Goodridge, Gould, R. A.; Graham, Gray, Gwadosky, Hale, Hastings, Heesch, Hichborn, Hichens, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Lawrence, Lemke, Look, Lord, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Merrill, Michael, Michaud, Mitchell, E.; Morrison, Nadeau, Nash, Norton, Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Poulin, Pouliot, Powers, Rand, Richards, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Savage, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Tannaro, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth.

MAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, DiPietro, Farnum, Farren, Foss, Garland, Greenlaw, Heino, Hepburn, Kutasi, Lebowitz, Libby, Lipman, MacBride, Murphy, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Sheltra, Small, Stevens, A.; Stevenson, Tardy, Whitcomb.

ABSENT - Aliberti, Bowers, Carleton, Cashman, Dore, Duplessis, Gean, Gurney, Handy, Hanley, Larrivee, Marsano, Marsh, Mitchell, J.; O'Gara, Ott, Pineau, Spear, Swazey, Townsend, The Speaker.

Yes, 97; No, 33; Absent, 21; Paired, 0; Excused, 0.

97 having voted in the affirmative and 33 in the negative with 21 absent, the motion did prevail.

Subsequently, Committee Amendment "A" (H-1143) was adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-1143) and sent up for concurrence.

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

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

SENATE PAPER

Bill "An Act to Ensure Financial Solvency of Insurers through Accreditation" (S.P. 957) (L.D. 2425)

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

Was referred to the Committee on Banking and Insurance in concurrence.

**PETITIONS, BILL AND RESOLVES
REQUIRING REFERENCE**

Bill "An Act to Authorize Construction on a Wharf in Long Lake at Naples" (H.P. 1741) (L.D. 2429) (Presented by Representative SIMPSON of Casco) (Cosponsored by Senator TITCOMB of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on Reference of Bills had suggested reference to the Committee on State and

Local Government.

Under suspension of the rules, without reference to a committee, the Bill was read once and assigned for second reading Thursday, March 19, 1992.

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

REPORTS OF COMMITTEES

Divided Report

Tabled and Assigned

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act to Prohibit the State from Entering into Residential Treatment Facility Contracts That Give Preference to Former Patients of State Mental Health Institutes" (H.P. 1637) (L.D. 2300)

Signed:

Senators: CONLEY of Cumberland
GILL of Cumberland

Representatives: SIMONDS of Cape Elizabeth
MANNING of Portland
GOODRIDGE of Cornville
TREAT of Gardiner
WENTWORTH of Arundel
PENDLETON of Scarborough
DUPLESSIS of Old Town
PENDEXTER of Scarborough

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1149) on same Bill.

Signed:

Senator: BOST of Penobscot

Representatives: GEAN of Alfred
CLARK of Brunswick

Reports were read.

Representative Manning of Portland moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought Not to Pass" Report and specially assigned for Thursday, March 19, 1992.

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

CONSENT CALENDAR

First Day

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

(H.P. 1712) (L.D. 2397) Bill "An Act Concerning the Structure and Operation of the Seed Potato Board" Committee on **Agriculture** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1150)

On motion of Representative Mayo of Thomaston, was removed from Consent Calendar, First Day.

The Committee Report was read and accepted and the Bill read once.

Committee Amendment "A" (H-1150) was read by the Clerk.

On motion of Representative Mayo of Thomaston, tabled pending adoption of Committee Amendment "A" (H-1150) and later today assigned.

(H.P. 1730) (L.D. 2421) Bill "An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1993" Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-1152)

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act Regarding Industrial Electrical Rates (S.P. 936) (L.D. 2395) (S. "B" 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. 103 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Authorizing the Town of Rockport to Refinance Certain Temporary Bond Anticipation Notes Issued for Its Wastewater Project (S.P. 942) (L.D. 2405)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and 4 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 Prevent the Poaching of Aquaculture Products (H.P. 1562) (L.D. 2200) (H. "A" H-1100 to C. "A" H-1016)

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. 105 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 Ensure the Availability of Ferry Service in Casco Bay (H.P. 1643) (L.D. 2306) (C. "A" H-1082)

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Ensure the Long-term Stability of Sheltered Group Homes in Maine (H.P. 1666) (L.D. 2342) (C. "A" H-1084)

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 Concerning Water Utilities (H.P. 1683) (L.D. 2363) (C. "A" H-1094)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 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 Authorizing Aroostook County to Raise Funds for Renovations to the Aroostook County Jail (H.P. 1728) (L.D. 2419)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

FINALLY PASSED

Emergency Measure

Resolve, to Ensure Protection and Family Support for Maine's Children (H.P. 1633) (L.D. 2297) (C. "A" H-1110)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act Concerning Long-term Care Recipients (S.P. 793) (L.D. 1992) (C. "A" S-614)

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

PASSED TO BE ENACTED

An Act to Study the Establishment of a Statewide Voter Registration File (S.P. 811) (L.D. 2010) (C. "A" S-596)

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

Representative Whitcomb of Waldo requested a roll call vote on enactment.

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. 360

YEA - Adams, Anthony, Bell, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Duffy, Dutremble, L.; Erwin, Farnsworth, Goodridge, Gould, R. A.; Graham, Gray, Gwadosky, Hale, Heeschen, Hichborn, Hوجلund, Holt, Hussey, Jacques, Joseph, Ketover, Ketterer, Kontos, Lawrence, Lemke, Luther, Mahany, Manning, Martin, H.; Mayo, McKeen, Melendy, Michael, Michaud, Mitchell, E.; Morrison, Nadeau, Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Powers, Rand, Richardson, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Tamaro, Tardy, Tracy, Treat, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutillier, Butland, Carroll, J.; Daggett, DiPietro, Donnelly, Farnum, Farren, Foss, Garland, Greenlaw, Hastings, Heino, Hepburn, Hichens, Jalbert, Kerr, Kilkelly, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Merrill, Murphy, Nash, Norton, Parent, Pendexter, Pendleton, Pines, Plourde, Pouliot, Reed, G.; Reed, W.; Richards, Ricker, Salisbury, Savage, Small, Stevens, A.; Stevenson, Tupper, Vigue, Waterman, Whitcomb.

ABSENT - Aliberti, Bowers, Carleton, Cashman, Dore, Duplessis, Gean, Gurney, Handy, Hanley, Larrivee, Marsano, Marsh, McHenry, Mitchell, J.; O'Gara, Ott, Pineau, Poulin, Spear, Swazey, Townsend.

Yes, 73; No, 56; Absent, 22; Paired, 0; Excused, 0.

73 having voted in the affirmative and 56 in the negative with 22 absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Govern Residential Propane Gas Suppliers (S.P. 898) (L.D. 2317) (H. "A" H-1099 to C. "A" S-584)

An Act to Clarify the Maine Juvenile Code (S.P. 937) (L.D. 2396) (S. "B" S-634)

An Act to Clarify Municipal Approval of Payments of Public School Funds and Awards of Hardship Fund Assistance (H.P. 1416) (L.D. 2028) (C. "A" H-1116)

An Act to Amend the Laws Regarding Licensing of Gravel Pits (H.P. 1459) (L.D. 2071) (C. "A" H-1115)

An Act Concerning Tribal Courts (H.P. 1494) (L.D. 2106) (S. "A" S-622 to C. "A" H-1065)

An Act to Clarify the Administrative Practices of the State Tax Assessor Pertaining to State-issued Licenses (H.P. 1497) (L.D. 2109) (C. "A" H-1093)

An Act Regarding 24-hour Pilot Projects in Workers' Compensation Insurance (H.P. 1524) (L.D.

2153) (C. "A" H-1103)

An Act to Clarify and Improve the Procedures of the Maine Health Care Finance Commission (H.P. 1537) (L.D. 2170) (C. "A" H-1117)

An Act to Clarify the Sales and Use Tax Laws Regarding Items Purchased with General Assistance Vouchers or Food Stamps (H.P. 1586) (L.D. 2240) (C. "A" H-1101)

An Act Pertaining to the Issuance of Orders in Domestic Abuse and Harassment Cases (H.P. 1574) (L.D. 2221) (C. "A" H-1113)

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.

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

PASSED TO BE ENACTED

An Act Concerning Landfill Operation on Certain Islands and to Correct an Error in the Landfill Operation Laws (H.P. 1622) (L.D. 2285) (C. "A" H-1076)

An Act to Open State Government to Public View (H.P. 1627) (L.D. 2290) (C. "A" H-1111)

An Act Regarding a Piscataqua River Basin Council (H.P. 1693) (L.D. 2373) (C. "A" H-1081 and H. "A" H-1098)

An Act to Encourage Expansion of Certain Residency Programs Related to Primary Care Physicians (H.P. 1706) (L.D. 2387) (C. "A" H-1109)

An Act to Permit Washington County to Establish a Budget Committee (H.P. 1727) (L.D. 2418) (S. "B" S-628)

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 Assist High-risk Students (H.P. 1457) (L.D. 2069) (C. "A" H-1096)

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

The following item appearing on Supplement No. 9 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. 1617) (L.D. 2278) Bill "An Act to Require Group Insurance Companies to Notify Covered Employees of Nonpayment of Premiums by Employers" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1155)

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

MATTER PENDING RULING

Bill "An Act to Strengthen the Campaign Finance Reporting Laws" (H.P. 1679) (L.D. 2356)
TABLED - March 17, 1992 by Speaker MARTIN of Eagle Lake.
PENDING - Ruling of the Chair.

Subsequently, Representative Whitcomb of Waldo withdrew House Amendment "A" (H-1134) to Committee Amendment "A" (H-1131).

Representative Lawrence of Kittery offered House Amendment "B" (H-1140) to Committee Amendment "A" (H-1131) and moved its adoption.

House Amendment "A" (H-1140) to Committee Amendment "A" (H-1131) was read by the Clerk and adopted.

Committee Amendment "A" (H-1131) as amended by House Amendment "B" (H-1140) thereto was adopted.

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

Representative Mayo of Thomaston offered House Amendment "A" (H-1141) and moved its adoption.

House Amendment "A" (H-1141) was read by the Clerk.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: For the Record, this amendment clarifies the intent of the sponsor and I believe the committee that when out-of-state political action committees report to the state and under this legislation they will be reporting to the state for the first time, they will report their own form under their own filing schedule to aid in the administration of this new act.

Subsequently, House Amendment "A" (H-1141) was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-1131) as amended by House Amendment "B" (H-1140) thereto and House Amendment "A" (H-1141) in non-concurrence and sent up for concurrence.

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

The Chair laid before the House the following matter: JOINT ORDER - Relative to the Joint Standing Committee on State and Local Government considering proposing an amendment to the Constitution of Maine to eliminate barriers to democracy (H.P. 1733) which

was tabled earlier in the day and later today assigned pending passage.

ROLL CALL NO. 361

Subsequently, the Joint Order was passed and sent up for concurrence.

Representative Hastings of Fryeburg moved that the House reconsider its action whereby JOINT ORDER - Relative to the Joint Standing Committee on State and Local Government considering proposing an amendment to the Constitution of Maine to eliminate barriers to democracy (H.P. 1733) was passed.

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

Representative MAHANY: Mr. Speaker, Men and Women of the House: I hope that we will not reconsider and that we will pass this Joint Order.

Let me tell you first of all, since the entire Joint Order is not on your calendar, what it addresses. It addresses the various two-thirds barriers that are built into our government, both for emergency legislation and for overriding the Governor's veto.

With respect to emergency legislation, I can be very brief on that. I am sure some of you will jump for joy to hear it. I feel that if something is an emergency, then we ought not to put up two-thirds barrier...

The SPEAKER: The Chair would interrupt for a moment. The pending motion is to reconsider. The Representative need not debate passage, it is only whether or not we ought to reconsider whereby we passed it.

The Representative may continue.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I think we ought not reconsider and I hope that you will vote against that motion.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Hastings of Fryeburg that the House reconsider its action whereby Joint Order H.P. 1733 received passage. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Mahany of Easton 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 Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: The only comment I have on reconsideration since there is considerable doubt as to what exactly this legislation does, I would urge reconsideration so it could be discussed.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Hastings of Fryeburg that the House reconsider its action whereby H.P. 1733 received passage. Those in favor will vote yes; those opposed will vote no.

YEA - Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutillier, Butland, Carroll, J.; Cathcart, DiPietro, Donnelly, Dutremble, L.; Farnum, Farren, Foss, Garland, Goodridge, Greenlaw, Hastings, Heino, Hepburn, Hichens, Hussey, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Mahany, Merrill, Morrison, Murphy, Nadeau, Nash, Norton, Parent, Pendexter, Pendleton, Pines, Plourde, Reed, G.; Reed, W.; Richards, Ricker, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Small, Stevens, A.; Stevenson, Strout, Tamaro, Tardy, Tupper, Waterman, Whitcomb.

NAY - Adams, Cahill, M.; Carroll, D.; Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Duffy, Erwin, Farnsworth, Gould, R. A.; Graham, Gray, Gwadosky, Heeschen, Hichborn, Hoglund, Holt, Jacques, Jalbert, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Lawrence, Luther, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Mitchell, E.; O'Dea, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Poulin, Pouliot, Powers, Rand, Richardson, Rotondi, Rydell, Saint Onge, Stevens, P.; Tracy, Treat, Vigue, Wentworth.

ABSENT - Aliberti, Bowers, Carleton, Cashman, Dore, Duplessis, Gean, Gurney, Hale, Handy, Hanley, Larrivee, Lemke, Marsano, Marsh, Michaud, Mitchell, J.; Nutting, O'Gara, Ott, Paul, Pineau, Ruhlin, Spear, Swazey, Townsend, The Speaker.

Yes, 66; No, 58; Absent, 27; Paired, 0; Excused, 0.

66 having voted in the affirmative and 58 in the negative with 27 absent, the motion to reconsider did prevail.

Representative Hastings of Fryeburg moved that Joint Order H.P. 1733 be indefinitely postponed.

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

Representative MAHANY: Mr. Speaker, Men and Women of the House: Thank you all for that nice lesson in parliamentary procedure.

Just to make sure that everybody knows what this Joint Order does, I will reiterate. I do not promise to be brief as some people do because I need to say what I need to say. Usually when people promise to be brief, they are not.

What this amendment would do and remember I am only asking that it be handed over to the State and Local Government Committee for consideration. Let me say right from the start that I am surprised that the Commission for Governmental Restructuring did not make a suggestion that would have lowered some of these two-thirds barriers, maybe not all of them but some of them. If I had been on that commission, I am sure that would have happened but somehow or other, I got overlooked. I don't know why.

First of all, let me tell you this is not a far-out idea. The idea to reduce the two-thirds barriers - you may like one and dislike the other but I want the committee to look at both. In any case, this is not a far-out idea. We have several states in the United States that provide either for a Governor's veto being overridden by a simple majority or by a three-fifths majority, that would be 60 percent, which would be 91 votes in our legislature. Those states, so that you know exactly what they are,

and you can check me out, that have the three-fifths override rule are Illinois, Maryland, Nebraska, (which also has a unicameral legislature) Ohio and Rhode Island, a neighboring New England state. Those states that provide for the override, for example of a Governor's veto, by a simple majority are Alabama, Arkansas, the state that Bill Clinton hails from and he has been able to be a really strong Governor in spite of the fact that his legislature can override his veto by a simple majority, Indiana, Kentucky, Tennessee and West Virginia. In West Virginia, budget items are subject to the two-thirds override rule. So, it is not a far-out idea at all.

I submit to you that an awful lot of good legislation gets hung up on all of our two-thirds rule. I am not saying that we ought to go to a simple majority. What I am saying is that we ought to go to a percentage that is more moderate and that really provides for balance between the two branches of government. I think that the numbers speak for themselves. If you exclude Governor Longley's term, which was four years, since 1929 when the vetoes and the number of overrides were first registered, previous to that time we have no record, we have had 222 vetoes. Only seven of those were overridden, which means, if you exclude Governor Longley's term, and he was an independent Governor so he had a special problem there, we have overridden a gubernatorial veto only 3.2 percent of the time. Those numbers speak for themselves, that is not balance and that is not checks and balances. If it were 50 percent of the time, it would be ideal. If it were 40 percent of the time, I could accept it, even if it were 33.3 percent of the time, I could accept it but it is only 3.2 percent of the time. A Governor is virtually guaranteed that his veto will prevail. And, in a time and an age when the legislature, not only on the state level but on the national level, is apt to be of one party and the executive of another party, it is even worse. In Maine, I think it is even worse than we realize because for the past 20 years, we have had a Governor elected by a majority mandate, that is to say, of 50 percent or more of the votes duly cast in a gubernatorial election, only once. So, that means nowadays in this state — and I don't care whether a Governor is a Republican or a Democrat or an Independent or what he is, I really don't, but in our scenario in these days, what we have had is an executive, not only under Governor McKernan, an executive that does not have a majority mandate from the people in any sense of the word that can frustrate literally all legislation of this legislature by simply exercising the veto.

When you consider how arduous and difficult it is to get legislation through this legislature with its two Houses, I think that is unreasonable. I remind you, I need to remind you, that when our constitution was first put in place, and on this particular issue we can go all the way back to the Massachusetts patriots, they required constitutionally that a gubernatorial candidate get a majority mandate, 50 percent or more of the votes duly cast. If that person did not get a majority mandate, the legislature decided who was going to be Governor. In other words, the message was, if you can't get a majority mandate from the people, then you have got to get a majority mandate from the people's body. Why do you think they did that? It is obvious, to uphold the principle and the requirement, in my

judgment, of a majority rule in a democracy or in a democratic republic as we are.

I hope that those among you who aspire to be Governor will look kindly on this Joint Order tonight and not be too greedy for power, looking ahead to your possible election.

In my opinion, if a Governor is really a good and persuasive leader, like Bill Clinton in Arkansas, he doesn't need a two-thirds override rule to be influential and effective. I say again, I don't care if the Governor we are talking about is a Republican, a Democrat or an Independent or whatever else might immerge in the future.

I have heard it said when I have introduced similar legislation, "Well gee, on the national level, the President has this kind of veto power and if it is good enough for the nation it ought to be good enough for us." Well, our tradition is older than the national tradition and I think on this particular issue, if you go back to the original constitution, also wiser. Apart from that, remember there is a vast difference between our government and a government in Washington. First of all, we are slightly over 1 million people and in Washington, they have to look out for many millions of people. In Washington, the Congress sits year-round, Congressmen can introduce bills, as I understand it, when they want to. Congress, as I understand it, has its own budget office, control of its own numbers and a part of Congress, the Senate for example, has a role that no state Senate to my knowledge has which is to give each of the states equal representation. So, you might say there is some justification for it on the national level. I think it is a little too high on that level myself but it is more understandable on that level.

These are my reasons, ladies and gentlemen. I think my reasons are reasonable, with prejudice to none and to no party. I just think that no one should have that much power concentrated in them, no single person, over the legislative branch and especially when that person does not have to have a majority mandate and, indeed, in our state very seldom gets it these days.

This would redress the balance somewhat, that is all I am asking. All I am asking you to do is help me get this down to State and Local Government which is now considering restructuring etcetera, etcetera. It ought to be there anyway for their evaluation and recommendation.

I should ask you please to vote against this motion to indefinitely postpone. Vote red because if I tell you that, I will remember it myself.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Fryeburg, Representative Hastings, that H.P. 1733 be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

53 having voted in the affirmative and 55 in the negative, the motion to indefinitely postpone did not prevail.

Subsequently, the Joint Order (H.P. 1733) was passed and sent up for concurrence.

The Chair laid before the House the following matter: Joint Order: (H.P. 1737) **Ordered**, the

ROLL CALL NO. 362

Senate concurring, that the Joint Standing Committee on State and Local Government consider proposing an amendment to the Constitution of Maine to amend Article V, Part 1, Section 3 to provide that if no candidate for the office of Governor receives a majority of votes cast in an election for Governor, the House of Representatives shall select 2 candidates for the office from among those running and that the Legislature shall elect a Governor from the 2 candidates which was tabled earlier in the day and later today assigned pending passage.

Representative Whitcomb of Waldo requested a roll call.

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

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

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

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I just want everybody to know what this Order is and let you vote whichever way you want to on it.

What this would do is it would put the Constitution of today back to where it was in the beginning, namely the Governor would have to receive a majority mandate and you already know what that is or else this election would go to the House and the other body. Of course, we expect to have a unicameral legislature so the items with respect to what happens in each body is kind of irrelevant. There is one difference between this and the Constitution of bygone days and that is, that in instead of having the other body choose one of the two candidates that the House would select, this would have the whole legislature sitting together and electing the Governor.

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

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: I hesitated to speak on the prior Order and I do on this one.

For us to spend our time and our committee time in this type of review in these times is, to me, ludicrous. If that is the choice of this House, so be it, but to me we are talking futility and I hope that you will not support the passage of this Joint Order.

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

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I think that the way that our institutions work and relate to each other are one of the most serious issues we can deal with. I feel very strongly about these issues or I would not have brought them before this body. I rather resent their being referred to as ludicrous. In these times or any other times, especially in these times, should we scrutinize.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage of H.P. 1737. Those in favor will vote yes; those opposed will vote no.

YEA - Adams, Carroll, D.; Clark, M.; Cote, Daggett, Gould, R. A.; Graham, Gray, Hale, Hichborn, Holt, Jacques, Joseph, Kilkelly, Kontos, Mayo, McHenry, McKeen, Michael, O'Dea, Oliver, Paradis, J.; Pfeiffer, Plourde, Poulin, Powers, Rand, Simonds, Stevens, P.; Wentworth.

NAY - Aikman, Anderson, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bell, Bennett, Boutillier, Butland, Cahill, M.; Carroll, J.; Cathcart, Chonko, Clark, H.; Coles, Constantine, Crowley, Donnelly, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Foss, Garland, Goodridge, Greenlaw, Gwadosky, Hastings, Heeschen, Heino, Hepburn, Hichens, Hoglund, Hussey, Kerr, Ketover, Ketterer, Kutasi, Lawrence, Lebowitz, Libby, Lipman, Look, Lord, Luther, MacBride, Macomber, Mahany, Manning, Martin, H.; Melendy, Merrill, Mitchell, E.; Morrison, Murphy, Nadeau, Nash, Norton, Paradis, P.; Parent, Paul, Pendexter, Pendleton, Pines, Pouliot, Reed, G.; Reed, W.; Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Savage, Skoglund, Small, Stevens, A.; Stevenson, Strout, Tammaro, Tardy, Tracy, Treat, Tupper, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Aliberti, Bowers, Carleton, Cashman, DiPietro, Dore, Duplessis, Gean, Gurney, Handy, Hanley, Jalbert, Larrivee, Lemke, Marsano, Marsh, Michaud, Mitchell, J.; Nutting, O'Gara, Ott, Pineau, Richards, Sheltra, Simpson, Spear, Swazey, Townsend.

Yes, 30; No, 93; Absent, 28; Paired, 0; Excused, 0.

30 having voted in the affirmative and 93 in the negative with 28 being absent, the Joint Order failed of passage.

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

FINALLY PASSED

Emergency Measure

Resolve, to Establish a Blue Ribbon Commission to Examine Alternatives to the Workers' Compensation System and to Make Recommendations Concerning Replacement of the Present System (H.P. 1696) (L.D. 2376) (C. "A" H-1142)

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

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

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I want it clearly stated on the Record that the signers of the Majority Report believe firmly that the Commission should consider the entire Workers' Compensation System in the State of Maine. That is to include consideration of proper and timely deliverance of benefits to those who are sincerely injured and in need of it as well as cost reduction. So there would be no question in the wording of that, I wanted it clearly stated on the Record that we feel that now the injured workers are also ill-served by the system as well as the system costing too much.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

REPORTS OF COMMITTEES

Divided Report

Tabled and Assigned

Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1154) on Bill "An Act to Establish the Motor Vehicle Emission Inspection Program" (H.P. 1645) (L.D. 2308)

Signed:

Senators: BALDACCI of Penobscot
LUDWIG of Aroostook
TITCOMB of Cumberland

Representatives: HOGLUND of Portland
SIMPSON of Casco
JACQUES of Waterville
ANDERSON of Woodland
LORD of Waterboro
COLES of Harpswell
GOULD of Greenville
MARSH of West Gardiner

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

Signed:

Representatives: MITCHELL of Freeport
POWERS of Coplin Plantation

Reports were read.

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

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought to Pass" Report and specially assigned for Thursday, March 19, 1992.

The following item appearing on Supplement No. 17 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Clarify the Law Regarding the Power of Sale Foreclosure Laws (H.P. 1556) (L.D. 2194) (C. "A" H-1114)

An Act to Amend the Radioactive Waste Laws (H.P. 1671) (L.D. 2347) (C. "A" H-1090)

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.

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

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act to Reform the Workers' Compensation System" (H.P. 1735) (L.D. 2423) which was referred to the Committee on Banking and Insurance in the House on March 17, 1992.

Came from the Senate referred to the Committee on Labor in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Impose a Sales Tax on All Items Sold at Flea Markets Except Those Sold by Nonprofit Organizations" (H.P. 1651) (L.D. 2314) which was passed to be engrossed as amended by Committee Amendment "A" (H-1137) in the House on March 17, 1992.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Establish a Budget Committee and Process for Cumberland County" (EMERGENCY) (H.P. 1603) (L.D. 2265) on which the Majority "Ought Not to Pass" Report of the Committee on State and Local Government was read and accepted in the House on March 18, 1992.

Came from the Senate with the Minority "Ought to Pass" as amended Report of the Committee on State and Local Government read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-1129) in non-concurrence.

On motion of Representative Coles of Harpswell, the House voted to Adhere.

CONSENT CALENDAR

First Day

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

Day:

(S.P. 890) (L.D. 2283) Bill "An Act Regarding the Purchase of Spirits at Agency Liquor Stores" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-636)

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

On motion of Representative Pendleton of Scarborough, the House reconsidered its action whereby Bill "An Act to Enhance Medical and Social Services for Maine's Long-term Care Consumers" (S.P. 169) (L.D. 403) was passed to be engrossed as amended by Committee Amendment "A" (S-624).

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-624) was adopted.

The same Representative offered House Amendment "B" (H-1157) to Committee Amendment "A" (S-624) and moved its adoption.

House Amendment "B" (H-1157) to Committee Amendment "A" (S-624) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, Ladies and Gentlemen of the House: This amendment provides insurance that should the in-state process of bidding become invalid in this section of the law that we discussed this morning, it would be given no effect. Although this amendment does not ease all of my own concerns, it speaks to the issue raised earlier in today's session regarding the legality and limiting of bids to in-state pharmacies.

I hope that you will support me and pass this amendment.

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

Representative MANNING: Mr. Speaker, I move indefinite postponement of this amendment.

Ladies and Gentlemen of the House: What this amendment will do is if anybody decides they want to object to what is going on can hold up this whole process. They can hold up the process for the next two or three years, have it go through the court system and that is just exactly what the pharmacists will want to try to do.

We have an opinion, it is not written but if you want to wait I can get it tomorrow. The opinion was asked by a Senator in the other body who is on the opposite side of me and the opinion came down, that in the U.S. Supreme Court they ruled that this piece of legislation that we are proposing (not this amendment) that says we can have in-state bidding process is legal.

I would hope that you would go against this amendment because all this is going to do is that anybody can hold this process up for any reason whatsoever.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment — all it does is say that if it is determined that that part of the section that allows only in-state bidders is

determined to be unconstitutional or unlawful, then the section of the bill should not be enforced. In other words, the hole that could have been created by limiting it to in-state bidders and then that being declared unconstitutional, which would have opened it up to out-of-staters has now been plugged. If the good Representative Manning is correct and it is constitutional, we have no problem, this bill stays as is. On the other hand, if in fact the legal opinion which they do not have and it is determined that the restriction for in-state bidders only is determined to be invalid or unconstitutional, then this section that provides for mail order prescriptions shall be null and void and unenforceable. All it is is a little insurance policy with no downside to it.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Augusta is correct as far as he went but of course he didn't tell you the rest of the story which is, if this section were added to the law, any lawyer worth his salt would go to court asking that the enforcement of the law be enjoined until the determination is made as to whether or not it is unconstitutional. As a practical matter, the Representative from Portland, Representative Manning, is correct that this would allow an individual pharmacist or a group of pharmacists to bring the whole program to a halt until there is a protracted litigation through the courts in a decision. I don't think that's what anybody in this chamber wants.

I would agree that this amendment ought to be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendexter.

Representative PENDEXTER: Mr. Speaker, Men and Women of the House: If I remember the debate correctly this morning, I think there was a lot of concern about whether — actually we got some reassurance from people on the Majority Report that this was indeed an in-state process, that the business would stay in the state and we received all kinds of assurances that that was so. I quoted in the Record from a letter that is from an Augusta law firm that is a lobbyist for the MEDCO people and in that letter you remember they distinctly said that they had some reservations about whether this was constitutional or not. So, if we are really serious about the issue of keeping this in-state and this is one of the issues that we are really concerned about, then I don't see what problems you have with this motion because this is really the issue that we are talking about in this bill, whether this will stay in-state or not.

I ask that you do not support the motion to indefinitely postpone.

Representative Tracy of Rome 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 from Portland, Representative Manning, that House Amendment "B" (H-1157) to Committee Amendment "A" (S-624) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 363

YEA - Adams, Anthony, Bell, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dutremble, L.; Erwin, Farnsworth, Gould, R. A.; Graham, Gray, Gwadosky, Hale, Hastings, Heeschen, Hichborn, Hichens, Hoglund, Holt, Hussey, Jacques, Joseph, Kerr, Ketover, Ketterer, Kontos, Lawrence, Luther, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Mitchell, E.; Morrison, Nadeau, Norton, O'Dea, Oliver, Paul, Pfeiffer, Plourde, Pouliot, Powers, Rand, Richardson, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Skoglund, Stevens, P.; Strout, Tammaro, Tardy, Tracy, Treat, Waterman, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Boutilier, Butland, Carroll, J.; Clark, H.; Donnelly, Duffy, Duplessis, Farnum, Farren, Foss, Garland, Greenlaw, Heino, Hepburn, Kilkelly, Kutasi, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Macomber, Merrill, Murphy, Nash, Paradis, J.; Parent, Pendexter, Pendleton, Pines, Poulin, Reed, G.; Reed, W.; Richards, Ricker, Salisbury, Savage, Small, Stevens, A.; Stevenson, Tupper, Vigue, Whitcomb.

ABSENT - Aliberti, Bowers, Carleton, Cashman, DiPietro, Dore, Gean, Goodridge, Gurney, Handy, Hanley, Jalbert, Larrivee, Lemke, Marsano, Marsh, Michaud, Mitchell, J.; Nutting, O'Gara, Ott, Paradis, P.; Pineau, Sheltra, Simpson, Spear, Swazey, Townsend, The Speaker.

Yes, 71; No, 51; Absent, 29; Paired, 0; Excused, 0.

71 having voted in the affirmative and 51 in the negative with 29 being absent, the motion did prevail.

Subsequently, Committee Amendment "A" (S-624) was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (S-624) in concurrence.

(At Ease)

The House was called to order by the Speaker.

On motion of Representative Lawrence of Kittery, the House reconsidered its action whereby Bill "An Act Regarding the Purchase of Spirits at Agency Liquor Stores" (S.P. 890) (L.D. 2283) was passed to be engrossed as amended by Committee Amendment "A" (S-636) in concurrence.

Report was read and accepted and the Bill read once.

Committee Amendment "A" (S-636) was read by the Clerk.

Representative Lawrence of Kittery offered House

Amendment "A" (H-1146) to Committee Amendment "A" (S-636) and moved its adoption.

House Amendment "A" (H-1146) to Committee Amendment "A" (S-636) was read by the Clerk and adopted.

Committee Amendment "A" (S-636) and amended by House Amendment "A" (H-1146) thereto was adopted.

Under suspension of the rules, the bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-636) as amended by House Amendment "A" (H-1146) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Establish a Boundary between the Town of Skowhegan and the Town of Madison (H.P. 1612) (L.D. 2273) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Ketterer of Madison, under suspension of the rules, the House reconsidered its action whereby L.D. 2273 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-1160) and moved its adoption.

House Amendment "A" (H-1160) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended by House Amendment "A" (H-1160) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Make Revisions in Marine Resource Laws (H.P. 1464) (L.D. 2076) (C. "A" H-1079) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Coles, under suspension of the rules, the House reconsidered its action whereby L.D. 2076 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-1079) was adopted.

The same Representative offered House Amendment "A" (H-1158) to Committee Amendment "A" (H-1079) and moved its adoption.

House Amendment "A" (H-1158) to Committee Amendment "A" (H-1079) was read by the Clerk and adopted.

Committee Amendment "A" (H-1079) as amended by House Amendment "A" (H-1158) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-1079) as amended by House Amendment "A" (H-1158) thereto in non-concurrence and sent up for concurrence.

The following item appearing on Supplement No. 16 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Improve and Expand the Operation of the Risk Management Division (H.P. 1449) (L.D. 2061) (C.

"A" H-1143)

Was 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.

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

On motion of Representative Greenlaw of Standish,
Adjourned at 7:50 p.m. until Thursday, March 19,
1992, at nine o'clock in the morning.
