

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Twelfth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume II**

**FIRST REGULAR SESSION**

**December 5, 1984 - June 20, 1985**

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## HOUSE

Wednesday, May 29, 1985

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

Prayer by Reverend Moses Baker, Kennebec Valley Assembly of God, Augusta.

Quorum called; was held.

The Journal of yesterday was read and approved.

## Reports of Committees

## Ought to Pass in New Draft/New Title

Representative PERRY from the Committee on Legal Affairs on Bill "An Act to Further Competition with New Hampshire in the Liquor Trade" (H.P. 19) (L.D. 17) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Further Competition in the Liquor Trade" (H.P. 1119) (L.D. 1615)

Report was read and accepted. The New Draft read once and assigned for second reading later in today's session.

## Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Clarify Just Value as it Relates to Property Assessment" (H.P. 463) (L.D. 664)

Signed:

Senators:

TWITCHELL of Oxford  
EMERSON of Penobscot  
DIAMOND of Cumberland

Representatives:

HIGGINS of Portland  
McCOLLISTER of Canton  
CASHMAN of Old Town  
MAYO of Thomaston  
SWAZEY of Bucksport  
NELSON of Portland

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-218) on same Bill.

Signed:

Representatives:

JACKSON of Harrison  
WEBSTER of Cape Elizabeth  
ZIRNKILTON of Mount Desert  
INGRAHAM of Houlton

Reports were read.

Representative Higgins of Portland moved acceptance of the Majority "Ought Not to Pass" Report.

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise to oppose the Majority Report of "Ought Not to Pass" and I would hope that the members of this body would reject that also so we could move the Minority "Ought to Pass" Report as amended.

I think that no one here has to think too deeply that Maine's property taxes are very burdensome and they are burdensome more particularly in the areas where the assessment practices aren't practiced to the best interest of those taxpayers and property owners in those communities.

I support the minority position, recognizing that there are inequities in assessing practices and standards throughout the state, recognize that something needs to be done and we have the opportunity here this morning to do something, to take a step in the right direction in bringing uniform assessment throughout the state. The amendment, under filing H-218, adds two words to L.D. 664 that removes current use and adds value in use in determining just value. It goes on to explain the value and use means a value based on the use of the property, if currently used. I am sure there are many here that have had complaints from property owners from their districts in reference to the way some of their property is being assessed currently in those areas. For example, you might have a vacant field, it might be a piece of farmland, it might be a

piece of cropland or it might be a piece of forestry property — if you are not involved in the tree growth program or involved in the open space and farmland program, chances are, that your municipality is assessing that property at its highest and best use, which would be translated into possibly a house lot on that property even though none exists, one is not zoned for it, etc. Why say this, that some communities have full-time assessors, these assessors are trained, they recognize and are aware of assessing practices which are adequate. There are others, who are part-time assessors, who attend assessing school probably for one or two weeks during the summer, they are taught a tremendous amount in that period of time and probably some of the things stick in their minds that they are taught first and the first is, the highest and best use of that property. That is their primary consideration, the highest and best use. So, when they look at that piece of property, — we could take Western Avenue here in Augusta, there could be a MacDonald's on one lot; there could be a house on another lot — what is the highest and best use for that lot with the house sitting on it? I suggest they probably would assess it and probably have assessed it as commercial property. That is not right, folks. The people live in those homes and they can't afford that assessment. We zone them out by taxation. We have elderly people, low income people, moderate income people, who are being abused by this same system and it is incorrect.

I hope, and I am sure there are other members who will be discussing the value and use, the concept of practices of assessing throughout the state, I hope you listen to them this morning, and I hope when you make your decision you decide with me.

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

Representative HIGGINS: Mr. Speaker, Men and Women of the House: I would hope that you would support the Majority "Ought Not to Pass" Report for a number of reasons. First of all, I concur with the gentleman from Harrison, we do have some definite problems in assessing techniques in the State of Maine. As I think the House is well aware, Speaker Martin has appointed a Joint Select Committee that is reviewing property taxes and is chaired by Representative Cashman, who also serves on the Taxation Committee.

This is a principle concern of that committee — why are we going through the public hearing process and binding our hands here today on a problem which may or may not exist. Assuming that it does exist, if we do, as the gentleman from Harrison has, we cannot accomplish the goal of the gentleman in this bill. This bill is not a constitutional amendment. To change to include these considerations, as we do, highest and best use as just value, one would need a constitutional amendment. This bill does nothing except put into statute something that cannot override just value in highest and best use.

As the courts have determined and as mandated in the constitution, for these two basic reasons, I hope you would accept the Majority "Ought Not to Pass" Report.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I tend to agree with the Representative from Harrison and I speak to you as someone who just resigned last December, after 10 years as an assessor in my hometown and haven't taken all the courses required, and we found that time and time again this highest and best use does not make sense at times because with advanced technology and increasing sizes of the towns, you have a piece of property which, at this time, is possibly vacant wasteland but

somebody down the road developed a house lot, then you possibly have to put it in highest and best use. Many assessors' hands are tied with what they are limited with.

I think the original bill was broad enough and I think the amendment by the Representative from Harrison does answer the position very well. Value and use gives the assessors and the appraisers in the towns and cities, if you want to call them that, enough of a leeway so they don't need to conjecture what is going to be on that particular piece of land, 60, 70, or 75 years from now.

I would hope that you would support the motion from the Representative from Harrison.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I agree fully with the gentleman from Lisbon. We discussed this concept with the Maine Municipal Association, who at first thought there wasn't a problem, and as they began to talk with the assessors dealing with open land, they found that there is a problem in this state. There isn't a uniform approach. Many assessors will take that land up to highest and best use, which is subdivision land and then back that off through its current use. Many don't, they leave it there and when they leave it there, the people can no longer hold that land. It is almost a prophecy that comes true because they have to sell that land to pay the taxes or the equivalent to sub-division taxes. As we went through, we discussed the change that has occurred in assessment within the State of Maine. Ten years ago, with open space, there was no problem in this state but about 10 or 11 years ago, through the training programs, through the development of full-time assessors, we have many aggressive assessors throughout this state who look at land as an untapped local tax increase rather than looking at the mill rate taking land to its highest and best use, they can keep the mill rate down but still deliver the new money that is needed on the local level in terms of expanded services or programs. When we look at that open land, it has no welfare costs, it has no school costs, though it pays for it, and when you look at the training manual by Paul Creteau by which most of these assessors were trained to paraphrase the language talks about the best use and says: "many times the landowner decides not to utilize that high and best use or they might, (I guess you could interpret in such a way), be smart enough to use that land, that farmland, for sub-divisions." The message is: then you make that decision for them. They have made a private decision that their land is going to remain open, it is going to be farmed, it is going to be open space but you, as a state trained assessor, can come in, pass judgment that that land should be taxed as sub-divisions and that person has lost the ability to keep that land open, which is to the benefit of all of us, or to keep it as farmland.

The counter argument that you will probably hear is that you could register that land but you have to go through and give up certain rights, you have to assume certain penalties to have your land assessed the way it should be assessed as a farm, producing farm income, which is very limited. So, we have seen that position develop in this state where we have given away our rights to property. Someone else by making an assessment decision can take your land away from you.

I met with a constituent this weekend, a dairy farmer in York County, he has been told that he is the last farm on the water side of the Turnpike from Kittery when you enter into the state to the town of Scarborough and he may be able to hold on another one or two years. What had been a prized agricultural area along the coast no longer exists. We are looking by the end of the decade that there will

be no active farms between Kittery and Scarborough and there is a message there in terms of our future. If we want to preserve the law as it is now, without the Minority Report, then you are creating enclaves of rich, wealthy, people along our coast and it isn't just those people perched on the coast, that pushing of low, middle income people, has now pushed five miles, ten miles inland. We will reach a point eventually with York County where we will be pushing those people out of the county.

Reference was made at the hearing that this amendment is a developers' bill. I would state to this House that the present law is a developers bill, because in a rural area, just the implication or a hint that one sub-division could come in there, could cause every piece of open space or farmland in that area to be reassessed as sub-divisions. If you have an assessor that is willing to do that, you accelerate that sub-division and it is having a devastating impact in my county, York County, and a devastating impact in Cumberland County.

Reference has been made to the Commission and we applaud that Commission in the recommendations that it is going to make. This is a very simple issue. One of the considerations, when that assessor comes up with that calculation, should be the use to which it is put currently, then you should support the Minority Report. It is a very simple message. On a roll call, you will have the opportunity to keep Maine people on Maine land.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I hope that the Representative from Kennebunk wasn't trying to imply by referring to the MMA that they endorse this Minority Report; the fact is that they vehemently oppose it. I think that the gentleman is well aware of that.

This is a very delicate issue. I kind of chuckle when the gentleman from Kennebunk refers to this as a simple issue. Nothing could be further from the truth. I think you have to understand that whatever you do that affects assessment practices in this state, you are affecting general revenue sharing, you are affecting the school subsidy formula, you are affecting the way the county tax is assessed because the assessment formula has a bearing on every one of those state and county programs.

It is a delicate area. We have been striving in this state for the past 15 years to have some uniformity in assessment. I would be the first to agree with the gentleman from Harrison that we have not achieved that yet. My problem with this Minority Report is that I think it is going to worsen the situation rather than help it.

I have a definition here of value and use that I will read to you. The definition is: "the value of an economic good to its owner-user, which is based on the productivity of the economic good to a specific individuals subjective value." These are the key terms, subjective value and the last line of the definition is that "it may not necessarily represent market value."

The Supreme Court has never defined just value as highest and best use as has been implied by the gentleman from Kennebunk. They have defined just value as market value, that is the key determinate of value in assessment practices. That is the only determinate that is not arbitrary, that is the only determinate value that you can look at as a guideline because there are actual sales, comparable sales, that you can look at as an assessor or an appraiser, and say, a very similar home sold for this price; therefore, the market place is always the final determinate of value; therefore, you can place this value on this piece of property. It is not common in this state for assessors to use highest and best use as the Maine criteria in assessment practices. That has been stated

here this morning and it is wrong. That has not been the Supreme Court ruling and it is not, in fact, a practice.

What this Minority Report will do is take us one step away from market value and the further you go from market value, the more arbitrary the assessments become, the more appeals you are going to have and the more problem you are going to have in terms of assessment practices varying from community to community in this state.

As the gentleman from Portland point out, I am chairing a committee that will be studying assessment practices in this state through this entire year. I think, as a committee, we would agree that assessment practices are not perfect and we are going to try to come back here with some recommendations that will improve the situation. This does not improve the situation, it is a bandaid over a stab wound at best and it will only serve to confuse the situation even more than it already is.

I asked the sponsor of this bill at the hearing a very simple question that I think you all have to ask yourselves before you vote on this. We are moving away from market value as a determinate in assessment — what do you want to replace it with? The only thing you can replace it with is an arbitrary assessment that is going to be pulled out of the assessors' heads and will be flying by the seat of his pants.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: The debate has been very good this morning but I have got to tell you that there has been a lot of smoke put out.

In reference that the only way this could be solved is by constitutional amendment, I disagree with that. We aren't even talking or discussing the constitutional amendment. We are discussing L. D. 664, which is an amendment to Chapter 701A which defines just value. All we are saying, along with highest and best use, the market value, the other components which assessors use as determinate a fair market value on assessment for property, they must also use value in use.

It has been referred to as a bandaid approach to a stab wound — I disagree with that but if everybody here does agree with it, I think that it is a step in the right direction and we ought to stop the bleeding. If that is the way to do it, then let's do it. We have used a bandaid approach more often than we have not relating to concerns of everyone in this state.

I would just like to quote to you in determining highest and best use as it relates to one of the components of just value. There is a Supreme Court ruling that was issued in 1894: "highest and best use is a most important principle and should be given primary consideration. It is a major factor of market value." This was an 1894 Supreme Court Decision. That is right from the assessors' manual of this state.

I do recognize that the gentleman from Old Town is chairing a committee, which is supposedly looking into the assessment practices throughout the state to try to resolve the inequities that exist, and I commend him for that but we have an opportunity here this morning to do something about it, not just pay lip service to it but do something about it.

I would hope that the members of this House would see and recognize that there are inequities throughout the state and this is an opportunity to start to resolve those inequities that exist.

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

The SPEAKER: The Chair recognizes the Representative from Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, have been involved in assessing property for a number of

years and, in the late years especially, has been a big problem with assessing trying to go over this highest and best use. I could give you a classic example of it on some land that I own myself. It is on a black road, on one side of the road there is a farm, field land, pasture land and a swamp; on the other side of the road is where my machine shop is — this land is all taxed the same. Some of the land I have is valuable to me because it is part of the farm and goes with the place but that swamp land and pasture land is nowhere near as valuable as the land where I have my machine shop. I think this best use bit is really not asking too much.

I know of farmers in my area that have fields they plant corn in and they have had to give up planting corn and sell the land off into house lots because that was the way it was taxed. They just couldn't afford to raise corn in those fields anymore. You see, down through generations of the family where they have been left property and a little bit of land that goes with it, they get to retirement age and they come along and tax it for the highest value — they just can't afford to live there.

How about down on a road somewhere, someone comes along and says: that would be a good place for Howard Johnson's, maybe it would and maybe it wouldn't, but the guy who is living there, has been living there all his life and is content to live there — are you going to put the taxes at its highest potential? It really doesn't seem fair to me and I have been trying to come up with some way to get at this problem for years. I was always told that there was a constitutional problem. The more that I look into it, I am wondering if we couldn't correct or at least take a big step in the right direction with a bill that we have before us right now.

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

Representative SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: The main thing that I can say on this question that is before us today is from my own personal experience. In my lifetime on the farm, I have seen my property taxes go from under a hundred dollars to well over six thousands dollars. A few years ago, we were revalued in our town and we knew that, at that time, our land values were rather low and through the summer while this evaluation was being done, I made several visits to the assessors office and asked what was going to happen. They said, well you know well enough that your land value has got to go up some but we only need to raise so much money so, while land values go up, other values will go down, so probably they won't change much. When I finally got the tax bill, the land values had gone up to more than my total tax had been. Then, checking on the buildings, the tax on the buildings was more than my total tax bill had been. In fact, my total tax had gone two and one half times. One of the problems was that there was a house lot on every piece of land and I happened to have seven of them. The value of the one acre that was a house lot, we called them phantom house lots because we didn't know where they were, the assessor couldn't tell us where they were, the value on that phantom house lot was 22 times what any other acre in the field was. What this did to a 12 acre field was that that one acre was a house lot was the same as the other 11 acres. On a six acre field, for instance, the value of that one acre was double what the rest of the fields were.

We have heard a lot of complaints about what tree growth and farm and open space laws have done to the towns; they have lost money on them, but the assessment on our land has forced us as landowners to put our land into tree growth or farm and open space.

We happen to rent a piece of land, a 32 acre field right on the edge of town, in fact, the old

limit sign used to be right in the corner of that field, this field was purchased about 15 or 20 years ago by a speculator, it was surveyed and laid out into, what he called, giant sized house lots. He had a nice, big plywood sign, painted and put up on the side of the road advertising these house lots — about two years after he had gone through this process of laying this out, surveying it and staking it, he came to me and wanted to know if we would cut the hay on that. We did one year. He came back the next year and I said, no I wouldn't cut it unless I could work the land and smooth it up and get it in better shape. He said, you go ahead and do it, do anything you want to it, use it like your own until we start selling house lots. We have planted corn and grass in that field for fifteen or seventeen years and these house lots are valued a little less than the phantom house lots that he puts on our farm, the assessor, makes one in every field, and yet in that time, he has not sold a house lot. I believe demand ought to be a big part of this assessment. If there is a demand for house lots, maybe that is some justification for putting house lots on farmland or woodland or whatever.

As has been said before, it seems that assessors are trained to get the most that they can wherever they can get it for the town to run their business on.

Another example regarding that evaluation was the fact that I have a dairy barn, which is over 30 years old, and when I checked out on this dairy barn, I found that it was valued at \$7,000 more than the best business in Dexter on Maine Street, which isn't a shoe shop or something like that, but the best store on Main Street was valued lower than that barn. Assessors may be smart and well educated but I think sometimes they need to use a little common sense.

I do hope you will go along with this bill that is before us today and oppose the motion that is on the floor.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Representative Sherburne on what he has said here before us today. I also lay much of the credit for our property taxes out in our rural areas on the doorstep of the tree growth property tax because I find it to be the engine that is propelling the taxes in our small towns, which is putting many of our people beyond reach and forcing those that are remaining also into tree growth, as has been pointed out. The more that go into tree growth, the more consolidation there is for the assessors to bring back around the existing properties that are available to them for evaluation so you have a "Catch 22" situation here that keeps bringing our people under heavier and heavier taxes on those that are remaining.

I would urge you also to defeat the motion which is before us so we can go on and accept the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: Some years ago, we gave the wealthy landowners in Maine the benefit of the tree growth provision. Let's give the poorer landowners a break today, let's go with the Minority Report.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: One way to sum up this bill in my estimation, and I believe this quite sincerely, this is a lawyers' bill, ladies and gentlemen. This clouds the evaluation process. The only people it will help is the land speculators and the people it will hurt, in my estimation, are the general property taxpayers

in this state. When you change assessment practices, you are not lowering property taxes, you are merely shifting burdens around. It is my estimation that administrative costs, because of this change, will create an increase in property tax outlays in your communities.

The good gentleman from Kennebunk misleads us when he tries to infer that this will help the problem with the loss of farmland, this bill will not do anything to help that. They mislead us by saying that it will help those individuals who have been forced out of their homes because they live in high assessed areas. This will not help that at all.

This is a lawyers' bill, it doesn't do anything to help the property taxpayers of this state. We have a committee that is studying that issue and I urge you to let that committee report its findings to this body so we can approach this problem from a sensible standpoint, not do it in a kneejerk, haphazard fashion.

I urge you to go along with the Majority Report.

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

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

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I think the smoke screen is dissipating now. I think it is clear that we are being led down the primrose lane with appealing catch words and catch concepts. Use and value or current use can be a portion of consideration in determining just value but to change just value, which is the assessment, would require a constitutional amendment.

I would hope that you would concur with the Majority "Ought Not to Pass" Report.

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

#### ROLL CALL No. 101

YEAS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Bost, Boutilier, Brannigan, Brodeur, Carrier, Carroll, Carter, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Descoteaux, Diamond, Duffy, Erwin, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Jacques, Joseph, Kane, Lisnik, Macomber, Manning, Martin, H.C.; Mayo, McColister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Perry, Pouliot, Reeves, Richard, Roberts, Rolde, Ruhlin, Rydell, Simpson, Smith, C.B.; Stevens, P.; Swazey, Tammara, Tardy, Theriault, Vose, Walker, Warren, The Speaker.

NAYS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Brown, A.K.; Cahill, Connors, Daggett, Davis, Dellert, Dexter, Dillenback, Drinkwater, Farnum, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lord, MacBride, Masterman, Matthews, McPherson, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Paradis, E.J.; Parent, Paul, Pines, Racine, Randall, Rice, Ridley, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Taylor, Telow, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT:—Brown, D.N.; Callahan, Gwado-

sky, Lacroix, Priest, Rioux.

73 having voted in the affirmative and 72 in the negative with 6 being absent, the motion did prevail. Sent up for concurrence.

#### Divided Report Later Today Assigned

Majority Report of the Committee on State Government reporting "Ought Not to Pass" on RESOLVE, to Establish a Study Commission on Government Competition with Private Enterprise (H.P. 996) (L.D. 1433)

Signed:

Senators:

KANY of Kennebec  
HICHENS of York  
ANDREWS of Cumberland

Representatives:

NADEAU of Saco  
LACROIX of Oakland  
BOUTILIER of Lewiston  
COTE of Auburn  
GWADOSKY of Fairfield

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-220) on same Bill.

Signed:

Representatives:

WENTWORTH of Wells  
HICHBORN of LaGrange  
SPROUL of Augusta  
DILLENBACK of Cumberland  
DESCOTEAUX of Biddeford

Reports were read.

On motion of Representative Nadeau of Saco, tabled pending acceptance of either report and later today assigned.

#### Divided Report

Majority Report of the Committee on Marine Resources on Bill "An Act to Enhance the Marine Fisheries Resources of the State" (H.P. 942) (L.D. 1352) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Examine the Lobster Resources of the State" (H.P. 1124) (L.D. 1620)

Signed:

Senators

CHALMERS of Knox  
SHUTE of Waldo  
BROWN of Washington

Representatives:

CONNORS of Franklin  
RICE of Stonington  
CROWLEY of Stockton Springs  
SALSBUURY of Bar Harbor  
SCARPINO of St. George  
VOSE of Eastport  
RUHLIN of Brewer

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

Signed:

Representatives:

MANNING of Portland  
MITCHELL of Freeport  
COLES of Harpswell

Reports were read.

Representative Crowley of Stockton Springs moved acceptance of the Majority "Ought to Pass" Report.

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

Representative MITCHELL: Mr. Speaker, I move that this Bill and all its accompanying papers be indefinitely postponed.

Ladies and Gentlemen of the House: This bill is a result of another bill, which is being held by the Marine Resources Committee, and that bill would increase the minimum size allowable on lobsters. It was the contrasting bill that was killed in the House yesterday; this bill would up the lower limit. This bill authorizes a \$30,000 study that would be performed by the legislature to determine whether this would help the industry or not. There is an enormous amount of literature out there and, at the public hearing, some people said that raising

the minimum would increase the lobster stock and some people said, raising the minimum would decrease it and I think the purpose of this bill is to give people on the committee sort of a peg to hang their hat on when the difficult time comes to vote on the minimum lobster size issue. There already is an enormous amount of information available on lobsters. In fact, the Commissioner of Marine Resources came to our committee and he had a bibliography of studies that had been done on American lobster and it was a book that was about an inch thick, I would guess that it had over 300 pages in it and on every page, there was at least 12 studies.

At the public hearing, there was a lot of convincing evidence, I thought, that by moving the minimum size of lobsters up that would benefit the state economically. Basically, the representative from the University of Maine told us that if we increased the measure up a sixteenth of an inch, the catch would fall off the first year by 4 to 7 percent and the second year, it would catch up and because the lobsters caught would be bigger, the value of the catch would increase by about a million dollars.

We can pass this bill today and we can authorize a study and we can spend \$30,000 to rehash a lot of information that already exists but I think the real purpose of this bill is to give people the political courage, I think, to pass a very tough bill. I don't think that that courage is going to be here next April or next February if it isn't here today and I hope you will support the motion to indefinitely postpone the bill. \$30,000 isn't a lot of money when you look at the entire state budget but you look at the table and there are a lot of things there that I think a lot more valuable than a study of information that has already been collected and digested a hundred times.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: I would urge you to oppose the motion to indefinitely postpone for almost the same reasons that Representative Mitchell used to indefinitely postpone. He is right, there is a tremendous amount of information out there. There is a large book, a bibliography on studies; however, those studies involve the overall or all aspects of the lobster industry, both recruitment, diseases, it is a monstrous book and it covers all kinds of things. The actual part that we will be looking at will probably be 20 percent of that book. He is right, Dr. Robert Bayer from UMO Sea grant, did say that if we increase the minimum size, we would have increased recruitment. He also said, and perhaps Representative Mitchell was in Energy and Natural Resources when he made this statement, that all indications were, if we decrease the maximum size by one quarter of an inch to four and three-quarters, we would have more juvenile recruitment than if we increased the minimum size by five sixteenths of an inch to three and a half.

What this study is designed for is, quite simply, to make a correlation of all the available information on both the marketing and the resource itself, both the conservation of the resource and the marketing of the resource to enable the committee to have an overview of what the actual situation is and what are the best steps for us to take to maximize both the resources itself and the marketing capability of the resource. Up to this, the only information that we have had is that information that has been selected by every group, whether they be conservationists or fishermen, or dealers, or biologists. They selectively went through the information, took out what supported their position and reported it to the committee ignoring all the rest of the information.

What this study is for is to have an independent, non-involved, qualified third party to look at all of the information available and

report back to the committee from the industry and maintain the resource. It is going to cost some money but that money isn't coming out of the General Fund, that money is coming out of the lobster fishermen's pockets. It is coming out of his license fees in the lobster fund so it is not in competition with any program in the state, it is the perfect example of an industry doing what it has to do to keep itself viable.

I would urge you to oppose the motion to indefinitely postpone so it would enable us to accept the Majority Report and get this underway.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: Strange as it may seem, I agree with everything Representative Scarpino just said.

I just want to add one small item to it. We changed the amount of money from \$30,000 to \$45,000 but this money is derived from taking \$13.00 of every \$33.00 commercial lobster license fee that is in the fund. Actually, this fund wasn't used to its full extent last year. I think there was \$80,000 to \$90,000 remaining in it so this money is available and it won't have a fiscal note on it.

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

Representative COLES: Mr. Speaker, Men and Women of the House: I would like to stand in support of my friend from Freeport's position. As he mentioned and as the Representative from St. George mentioned, there has been a lot of work done but they have been picking pieces out of it to support their own cases and I don't believe we are ever going to find a non-involved, independent, qualified party that doesn't already have some view on this matter and who hasn't already picked over the existing evidence to serve his own purposes.

We have a department, we have a scientist commission, we have a staff assigned to this and we have people experienced in the fisheries industry, we have fishermen who have looked at all these studies and they don't agree so I don't believe that spending \$40,000 to rewrite existing work is going to make a bit of difference in their views next year. I think this is basically a waste of money. If we want to vote on this matter, then we should vote on it. In fact, I disagree with my friend from Freeport on how I will vote, I will not support the increase in the minimum but I do believe that it is a waste of money to study the issue any further.

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: There have already been so many studies done, we have so much information that we don't know what to do with it and I think the only way that we can get any new information is to join the lobsters and swim around with them for a year or two and we may reach the conclusion that we shouldn't be catching them at all.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: If we do do that, I hope that I at least achieve the five inch size.

We debated the bill long and hard yesterday and a couple of days previous to that and this is the infamous study that I kept referring to and the good gentlemen from Freeport, my good friend Representative Mitchell, has said that this is to give us the political courage to vote in whatever direction. I would disagree with that, I would say that it gives us the political knowledge to vote in the right direction.

It is true that a lot of studies have been made but this is going to isolate just on those two sizes and I think we will find some information out there that will be of value to us and the majority of the committee felt the same way. As a result of this study, we are either going to do something: we are going to either support the elimination of the five inch or the increase of the minimum size or simply defeat it once and for all and I hope that this study will help us make that decision.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Freeport, Representative Mitchell, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes, those opposed will vote no.

A vote of the House was taken.

9 having voted in the affirmative and 92 in the negative, the motion did not prevail.

Whereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading later in today's session.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Appropriate Funds for the Wildlife Management Institute to Conduct a Study of the Department of Inland Fisheries and Wildlife" (H.P. 457) (L.D. 658)

Signed:

Senators:

USHER of Cumberland  
MATTHEWS of Kennebec  
WEBSTER of Franklin

Representatives:

JACQUES of Waterville  
SMITH of Island Falls  
DUFFY of Bangor  
ROTONDI of Athens  
WEYMOUTH of West Gardiner

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-223) on same Bill.

Signed:

Representatives:

GREENLAW of Standish  
WALKER of Norway  
CLARK of Millinocket  
CONNERS of Franklin  
ERWIN of Rumford

Reports were read.

Representative Jacques of Waterville moved acceptance of the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending his motion that this House accept the Majority "Ought Not to Pass" Report and tomorrow assigned.

#### Divided Report

Majority Report of the Committee on Human Resources on Bill "An Act to Repeal Home Day Care Registration Requirements" (H.P. 324) (L.D. 439) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Renaming Registered Day Care Providers as Home Baby-sitting Service Providers" (H.P. 1120) (L.D. 1616)

Signed:

Senators:

BERUBE of Androscoggin  
BUSTIN of Kennebec

Representatives:

KIMBALL of Buxton  
MELENDY of Rockland  
CARROLL of Gray  
MANNING of Portland  
NELSON of Portland  
BRODEUR of Auburn

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Rename Registered Day Care Providers as Home Baby-sitting Service Providers" (H.P. 1121) (L.D. 1617) on same



Bill.

Signed:

Senator:

GILL of Cumberland

Representatives:

PINES of Limestone

SEAVEY of Kennebunkport

ROLDE of York

TAYLOR of Camden

Reports were read.

On motion of the Representative Nelson of Portland, the House accepted the Majority "Ought to Pass" Report, the Bill read once and assigned for second reading tomorrow.

#### Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-224) on Bill "An Act to Authorize an Award System to Aid in Coyote Control" (H.P. 858) (L.D. 1217)

Signed:

Senator:

WEBSTER of Franklin

Representatives:

GREENLAW of Standish

ERWIN of Rumford

SMITH of Island Falls

WALKER of Norway

CLARK of Millinocket

DUFFY of Bangor

ROTONDI of Athens

CONNERS of Franklin

WEYMOUTH of West Gardiner

JACQUES of Waterville

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

Signed:

Senators:

MATTHEWS of Kennebec

USHER of Cumberland

Reports were read.

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

Committee Amendment "A" (H-224) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-225) on Bill "An Act Concerning Handicapped Motor Vehicle Registration Plates or Placards" (H.P. 778) (L.D. 1099)

Signed:

Senators:

SHUTE of Waldo

ERWIN of Oxford

DANTON of York

Representatives:

THERIAULT of Fort Kent

MACOMBER of South Portland

McPHERSON of Eliot

MILLS of Bethel

CAHILL of Woolwich

POULIOT of Lewiston

STROUT of Corinth

CALLAHAN of Mechanic Falls

SOUICY of Kittery

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

Signed:

Representative:

MOHOLLAND of Princeton

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative THERIAULT: Mr. Speaker, I move the Majority "Ought to Pass" Report.

I further move that this be tabled for one legislative day.

I ask Leave of the House to withdraw my mo-

tion to table.

The SPEAKER: The Representative from Fort Kent, Representative Theriault, is granted Leave of the House to withdraw his motion to table.

Whereupon, on motion of Representative Theriault of Fort Kent, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-225) was read by the Clerk.

On motion of Representative Theriault of Fort Kent, tabled pending adoption of Committee Amendment "A" and later today assigned.

#### Divided Report

Eight members of the Committee on Human Resources on Bill "An Act to Require the Proceedings of Boards of Directors of Nonprofit Hospitals to be Open to the Public" (H.P. 878) (L.D. 1235) report in Report "A" that the same "Ought Not to Pass"

Signed:

Senators:

BERUBE of Androscoggin

GILL of Cumberland

BUSTIN of Kennebec

Representatives:

TAYLOR of Camden

PINES of Limestone

NELSON of Portland

SEAVEY of Kennebunkport

KIMBALL of Buxton

Four members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" in New Draft (H.P. 1122) (L.D. 1618)

Signed:

Representatives:

CARROLL of Gray

MELENDY of Rockland

BRODEUR of Auburn

MANNING of Portland

One member of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass" in New Draft under New Title Bill "An Act to Require the Proceedings of Boards of Directors of Nonprofit Organizations to be Open to the Public" (H.P. 1123) (L.D. 1619)

Signed:

Representative: ROLDE of York

Reports were read.

Representative Nelson of Portland moved acceptance of the Majority "Ought Not to Pass" Report.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: There are several reasons why you should vote for the "Ought Not to Pass" Report.

One, it treats nonprofit hospitals in an unfair competitive disadvantage to those profit hospitals we now have in our state. There has been some question about its very constitutionality. That I can't speak to as I am not a lawyer.

Two, it effectively makes hospitals into a governmental agency and subject to the Maine Freedom of Access Law, that is the key. Basically, it is unnecessary as hospitals already receive extensive scrutiny through the Cost Containment, which we have and that process is public and open to all. So is the Certificate of Need process, which is indeed a public process and open to the public. It places the nonprofit hospitals in an unfair competitive position on vendor contracts, bond issues and other matters in which they compete with other profit and nonprofit groups. It prevents boards from handling sensitive matters such as quality of service reviews and general patient problems and may well lead to increased malpractice insurance claims. Again, I don't know, it might be opening the doors to more legal complications. Hospitals are already accountable to their communities. People who serve on the

boards represent, supposedly, different aspects of their community. I know that in my community, in order for my hospital to plan an expansion, etc., and that is open to the public. If you do not treat a discussion on the board in a proper way, since we are now subject to the Right to Know Laws, the violation for not protecting people in the Right to Know, is a Class E Crime, which is subject to six months in jail and \$500 every time you violate that Right to Know.

There are many things that go on inside hospitals. Hospitals now are very competitive. If there is a decision that must be made, whether they are going to have a new or expanded service, their competitors might now be free to come to listen to the discussion. Granted you can go into executive session but the topic of the executive session and the final vote is public. I think, by passing this law, we are opening up that proverbial can of worms.

So, I urge you to vote with the majority on this bill and vote "Ought Not to Pass."

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not vote with the pending motion and that you would vote to accept Report B. As a sponsor and someone who feels strongly that this piece of legislation is needed out there, I ask you to listen and to be sympathetic to the needs of the people. I have had numerous requests from citizens of this state for this bill. Why? Because some hospitals out there are trying to do things against the wishes of the people in the communities that they serve.

Just to mention a couple of cases that have been brought to my attention—one is a case where a hospital stood to lose its state license. The administration and trustees refused to give the people of that community the financial information that they were seeking in order to help save them their hospital. A legislator from an outside area came in and helped them secure the financial information that they needed.

Another case of where a hospital had gone through a reorganizational process and had decided to close down a nursing home that had been part of the holdings of one of the affected communities. They claimed that the nursing home was losing money. After much public outcry and division among the people of the two communities, the board and administration decided to allow a blue ribbon committee to be formed who would study the records and make recommendations. However, one of the most pertinent pieces of financial information that the committee should have had at its disposal was never given to them for their use during the study. When a local legislator obtained the report at the state level and asked why the hospital had not provided the committee with it, their only reply was, "No one ever asked for it." As it turned out, the committee used the report and it showed that many hospitals costs had been shifted to the nursing home to make it look as though it were running in the red. Needless to say, the community was finally able to save its nursing home in spite of what it was put through to do so.

Why should communities who, over the years, have worked so hard to get their hospitals built be left out in the cold because new out of state professional administrators come along who have no allegiance to the people they serve, whose performance and remuneration are based on bigger and growing is best in their climb to the top as they move from community to community.

I have heard several legislators say, "well, I don't need to vote for that, we have no problems in our area." My response is, "you may not have a problem today, but what about tomorrow?" You could have to replace your ad-

ministrators for some reason or other and unknowingly replace him or her with one like these two communities have. Then, what would your cry be?

I have also been encouraged by physicians and nurses who feel more open communication could lead to better care. Isn't this just what hospitals are supposed to be all about?

Perhaps the biggest reason why this bill is before you today is because the Maine Hospital Association reneged on an earlier promise. Two years ago, during deliberations on the hospital cost containment, I wanted this provision included in that piece of legislation. During the second session of the 111th, I called a meeting of their lobbyists who had publicly promised to work with me. Their former director was no longer with them so a representative from their organization was present as was a member of the Governor's staff. The lobbyist first denied that the promise was ever made. But when witnesses to his statement were produced he said, "well then, I changed my mind, if we were to work with you in order to produce a piece of legislation, it would look as though we were for this bill so we would rather not do anything and fight from ground zero." So, here I am, ladies and gentlemen at ground zero, and I need your help.

Had any attempt whatsoever been made by the Maine Hospital Association to at least encourage all hospitals to have some form of open meeting or informational sessions with their communities during these two years, this bill would not have been here today, but they chose to do nothing. What sort of good faith is that? I am sure that most of you have heard from your administrators by now and I can tell you what they ask, "why us?" I ask, "why not?"

A quote from one of the trustees that wrote to me said, "It would allow public participation and knowledge of the affairs of one of the last groups in the country receiving substantial amounts of public money without the opportunity of public scrutiny. Maine hospitals receive more than 50 percent of their revenue from state federal funds. Further, the revenue from Blue Cross-Blue Shield, private insurance and self-pay is part of the deductible allowed to business and personal income taxpayers, both federal and state. This write-off situation alone is sufficient to establish the public's right to know."

I am sure another statement was, "we couldn't possibly function with open meetings." Well, I would like you to know that there are four hospitals in Maine whose meetings have to be open to the public because of federal mandate. We have two that have open meetings at some times, we have eight hospitals who do not deny access to anyone but they don't advertise their meetings but, if people come along, they are certainly welcome to stay and 29 of them do not. So I say, if some can and do open their meetings in our state already and they say they have no problems doing so, how can hospitals say that there is no way it can be done.

Another question I am sure was, what about when we have to discuss physicians? That has been amended in Report B because that would be able to be done in executive session.

Another question, what do we do when we have pending litigation? That already is in the Right to Know Law. What do we do about long range planning and competition with other hospitals? Report B has been amended to take care of that situation. Another question, why only us and not other nonprofit organizations such as the Boy Scouts, Big Brother and Sister organizations? Because obviously no one has had any problems with communicating with them and most of them probably open their meetings anyway. I am sure there were probably other questions, and if there were some that are of real concern and for which the Right to Know Law does not address, I

would be happy to have us amend the bill and make it address their legitimate concerns.

In closing, I would just like to make a brief statement from a quote in the Kennebec Journal on March 9, 1985. "Kennebec Valley Medical Center President, Warren C. Kessler, sees a rising cost of medical malpractice as the most important issue confronting medicine in this decade. The problem could devastate the State of Maine in the next five years. One cause of more suits, which KVMC can address, is the decline in personal relationships between patients and physicians in this fast paced, highly technical society. When a trusted friend, makes a mistake, you are less likely to sue; when a stranger makes a mistake, it is much more likely." In his last quote, "I think we have to make the hospital as personal, as feeling, a sensitive environment as possible in what is a highly technical society." Kessler says, "Therein lies the challenge." I submit to you, ladies and gentlemen, you can help them meet that challenge by passing Report B.

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

Representative INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I consider this bill a danger to the rights of the privacy of people. Board meetings in hospitals are too sensitive an area to be thrown open to the public for tape recordings in such procedures. There is patient information that should be confidential. There is salary information about physicians or perhaps reprimands that should not be open to the public but should be within the organization. There is also a very great danger of just plain gossip. That is particularly true in small towns. The information is available to the people but much information should be treated with discretion.

Again I say, I consider this proposed bill unreasonable. It would risk the rights of the people who have the right to expect confidentiality of their personal business and medical information.

I hope you will accept the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Camden, Representative Taylor.

Representative TAYLOR: Mr. Speaker and Members of the House: A private, not for profit corporation, is a very unique structure. They are generally 501 C3 and they are designed in a very special way. This design is one of total community participation in its leadership. That is, the community manages the corporation, it is ultimately liable as a whole and its bylaws and policies are written by these same folks. I fully realize that these organizations often have communication problems. However, I hope we all realize the best way for this to be resolved is to allow the process to work, that is, within the community. Those same organizations must work well in the community for them to work at all. Imposing our wisdom or lack of wisdom may do little to remedy a lack of communication or even a lack of trust that may at some point have developed within the corporation.

Let's keep our fingers out of this, let's let the community work it out. These are not state run organizations, they are private and they do a great deal of work for us as a group of people. Let's not interfere with something that I feel is very, very precious.

I urge you to support the Majority Report.

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

Representative WARREN: Mr. Speaker, Men and Women of the House: If you are all still open minded at all on this bill, I would appreciate the opportunity to share with you just a few brief views in this area.

L.D. 1235, which is before you right now would do a few things. It would allow you and

other citizens in your community to learn what is going on in nonprofit hospitals. It would allow you to attend meetings of the board of directors of nonprofit hospitals. These are hospitals throughout Maine that receive public money, taxpayer funds and other considerations and actions from the Legislature. These are hospitals that provide necessary and emergency care to people in Maine. They are licensed and regulated by the State of Maine.

Here a few things that L.D. 1235 does not do. It does not put citizens on the board of directors of these nonprofit hospitals, it does not put consumer representatives on the board of directors and it does not give the community any veto power about how these individuals actually run their hospitals. This bill simply seeks to provide information to those in the community who are interested in it and who use it in the best interests of the community.

It strikes me that there are a couple of important points to consider when we are talking about this legislation. I say that having sat here only for five months and gotten somewhat a sense of the legislature and the things that it generally is concerned about. The first important point I think I would like to bring to your attention is that, in my view, these nonprofit hospitals are not private organizations, they are not like a private corporation with private stockholder money, private investments, private dividends, private shareholders. They are in a sense very much a semi-public organization and that is the only reason why I felt I could support this bill and support it strongly.

In my law practice, we represent numerous small Maine corporations with anywhere from two to fifty employees. I would not be standing before you today if this bill applied to opening up the board meetings of private corporations. I think private corporations in this country should remain closed since they affect only the people whose money is invested. In this case, non-profit hospitals are using money, tax dollars, from you and me and the citizens of our community. They are the equivalent of -- I guess you could call them benevolent monopolies in a community. And, unlike a free enterprise private sector situation, if you are unhappy with what they are doing, you can't simply go to the competition down the street. There is no competition down the street. This is not like a hot dog stand, if one closes, you can simply raise capital from a bank and open one the next day. The fact is, whether we like it or not, this area of our society is very heavily regulated. In order to open up a hospital or nursing home, as you know, this legislature has required a Certificate of Need process that is very complex and takes a lot of time. It provides regulations and statutes dealing with other licensing requirements and other regulations. So, this is not purely a private sector issue. I think a lot of us, when we first heard of the bill, said: gee, this is a private hospital, why should the people of Maine be allowed to attend board meetings? I agreed with that. Then I studied the issue a little more and I found what tremendous involvement this state and the people have and what we have a stake in this issue.

I received a letter from the lawyer for the nonprofit hospitals and I think a few other people in here have received this same letter. I would just like to tell you a few points that this lawyer raised on behalf of the nonprofit hospitals in opposing this bill and just offer a response to them. The Representative from Portland, Representative Nelson, has already mentioned a few of the concerns that this lawyer had. His argument is that we shouldn't pass this bill because nonprofit hospitals are already open to a lot of public scrutiny, for instance, the Certificate of Need process. I guess my response to that is that yes, they are open to a lot of public scrutiny, by the legislature and by the citizens of the State of Maine and that



is for a good reason. It is for those same good reasons that this legislature should allow citizens the simple, reasonable access to board meetings so that we can know how semi-public funds are being spent and how decisions are being made in a monopoly situation in the health care field.

The second point he raises is that this bill would put nonprofit hospitals at some sort of unfair competitive disadvantage. My response to this is that we can protect this. I think that is an extremely valid concern even though these nonprofit hospitals do have a lot of tax money at stake and are regulated by the public and for the public. The fact is, they do have a budget, they do have expenses, they have costs, they have to run what, in some ways, resembles a business. I think that we can protect, for instance, things like trade secrets, important decisions made by board of directors in a competitive area. An example of this I will cite is, the recent court suit involving Sears in Kennebec County Superior Court. In that case, Sears was open, in a sense, to the public eye through the rules of discovery in that court suit. The State of Maine, through the Attorney General's Office, requested and received access to certain documents concerning Sears alleged bait and switch policies and things like that. While the judge did require Sears to produce these documents, the judge did not make them public. You and I could not walk down the street to Superior Court House and ask to see all the documents concerning Sears and its commercial practices. The judge has decided, for very good reasons, that although those should be seen by the other side and should be involved in this public law suit, they should not be open to the general public. I think the same thing could easily be done — I think, in some respects, this issue is a red herring. I don't think this bill would put non-profit hospitals at any competitive disadvantage.

The third point that this lawyer raises is that the bill is not needed because the board of directors of hospitals are elected. He argues that they take care of things responsibly, they act in the best interests of the community and they vote on issues and decide issues in the best interests of you and I. My response to this is, who elected them? Did you elect them? I didn't elect them. If they were to take an action, for instance, buying machinery, CAT Scan machine, X-ray machines that perhaps they don't need, that perhaps they should use for another hospital, if I don't like that or you don't like that, what is our recourse? When is the next election of the board of directors? Do you and I have a vote? Not that I know of. I think that the argument that they are already elected is somewhat specious.

The next point he raises concerns the Maine Right to Know Law, a law that this legislature passed several years ago opening up the proceedings of certain bodies to the public when those bodies affect the public interests and public funds and rights are involved. This lawyer argues that this law would be applied too broadly to the board meetings of non-profit hospitals. He says, for instance, that if a board of directors wanted to call an emergency meeting, that this would not be allowed under this bill. I don't think that is true. I think the case law in this area of law shows that when any body that is subjected to the requirements of the Right to Know Law, wants to call an emergency meeting, that that is an exception to the Right to Know Law and that they simply have to inform the public as soon as possible afterward about their actions. Obviously, we all know that the town councils and city councils in our own municipalities are subject to the Right to Know Law but, when they occasionally have an emergency meeting, this is not banned by the Right to Know Law. The Right to Know Law is a very reasonable law and I think it would be applied very reasonably in this case. If there is a concern about this ap-

plying to emergency situations, when a board of directors of a nonprofit hospital would like to call an emergency meeting, I am sure that the good representative from Rockland, Representative Melendy, would be willing to amend the bill.

The next issue that this lawyer for the hospital association raises has to do with records, confidentiality. I think this was a point that was somewhat broached by Representative from Houlton, Representative Ingraham. Right now, these hospital records are confidential and I am sure that the sponsors and backers of this bill would like them to remain confidential. No one wants to see the confidential records about somebody's gallbladder operation made public and opened up for printing in the newspapers in our community and I don't think that would happen.

I would like to quote from this letter that I received from the lawyer on this issue of what would be open and what would not be open. He says, "the consequences which flow from this status of a nonprofit hospital being deemed a governmental entity are serious and far-reaching." Then he goes on to say he acknowledges, "while the Maine Freedom of Access Law permits executive sessions in certain circumstances, the subject of discussion are very limited and appear to exclude from private deliberation the credentialing of physicians, review of hospital incidents reports, peer review activities and related matters. It is further questionable whether personnel matters would come within the range of permissible executive session topics." I think that is a shocking statement. I think anybody here who has been involved on a municipal board, whether it is planning boards, zoning boards, town councils, city councils knows that a very much accepted reason for going into executive session is personnel matters. This lawyer does not cite any cases in which personnel matters were not allowed to be talked about in executive session, I would be fascinated to see some citations.

This particular law firm has on the letterhead close to 25 lawyers available to it and I would think that if there were cases out there saying that personnel matters could not be discussed in executive session that they could find them.

The last issue, and I think this is the truest red herring of them all, has to do with the criminal sanctions available to people who violate the Maine Right to Know Law. This lawyer appears to express shock at the thought that hospital administrators and members of the Board of Directors could be subject to Class E criminal sanctions if they violated this law. Well, that is true but, for those of you who have followed this area of law and its application, you will know that the prosecutions under this law are very rare and, in fact, I only know of one. It was in the Bath-Brunswick area about a year ago and involved some selectmen and the District Attorney ended up dropping the case. One reason he ended dropping the case was, in order to bring a prosecution under this statute for violation of it, you have to prove intent. So, for a member of a board of directors or hospital administrator to be prosecuted under this law for violation, there would have to be some very serious circumstances. If they simply discussed something or took an action that was in violation of this and really didn't know it and acted responsibly, I doubt this would be a problem at all.

In conclusion, I think when we consider the very much public nature of these nonprofit hospitals and how the legislature is involved with them and the people are involved with them and the fact that they are a monopoly and make decisions that affect us all, I think this bill is a very reasonable step and I urge you all to follow the light of the Representative from Rockland, Representative Melendy.

Mr. Speaker, I would request a roll call.

The SPEAKER: A roll call has been re-

quested. The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker Ladies and Gentlemen of the House: If you have been following this debate, you have noticed that I have a different approach than the other members of the committee and that stems from the beginning of the session when I talked to the Maine Hospital Association about their position on this bill. Their position was, if we have to open our board meetings, we don't see why all other health related organizations shouldn't be forced to open their board meetings. That is basically what I have put out here.

I would make some further points because we are making a very definite change in the Right to Know Law and that can be seen, if you look at Section 409, you will see that the word they use right now is person. That is the change that is being made. Originally, the word was official. So until now, we have extended the Right to Know Law only to official proceedings of elected bodies.

I would like to just respond to a couple of things that the gentlemen from Scarborough, Mr. Warren, said because the things that really bothers me about the bill is the fact that it is singling out one very narrow class, nonprofit hospitals. Now we only have for-profit hospital in the state at this particular time. Under the Hospital Cost Containment Law, that hospital is treated exactly as the other nonprofit hospitals are. So, I don't see why there should be a distinction made between profit and non-profit. That is very important to my hospital in York for this reason. We have, across the river in New Hampshire, a for-profit hospital corporation, one of the largest corporations in the United States. It has taken over the Portsmouth Hospital. They have said that they are really going to put our little small, nonprofit hospital out of business. Possibly and eventually, they hope to see nonprofit hospitals treated differently than the profit hospitals.

The other question that I have concerns the effects that this will have on hospitals and their relationship to the Hospital Cost Containment Law and I would just ask this question of the gentlemen from Scarborough, Representative Warren, or anyone else who could answer: if, for example, a nonprofit hospital were not to follow all the requirements of this particular law and they were sued by local citizens or any other citizens that were affected, how would the Hospital Cost Containment treat payment of their legal fees?

The SPEAKER: The Representative from York, Representative Rolde, has posed a question through the Chair to the Representative from Scarborough, Representative Warren, who may respond if he so desires.

The Chair recognizes the Representative.

Representative WARREN: Mr. Speaker, Ladies and Gentlemen of the House: The answer to that question is, I don't know. I don't know how the Hospital Cost Containment Law deals with attorneys fees in cases like this. As I understand it, it was passed at a time when we didn't have any statute like this so I don't know what the answer to that would be.

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

Representative BOUTILIER: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, I just want to reply to my good friend from Scarborough when he mentioned that this bill would not put citizens on the board of directors—well, let me point out that citizens are already on the board of directors of most hospitals and they are not machines with no concern for the public good or the public's well being. That is extremely apparent in my community and my district of which I have two hospitals, both in constant competition for their services and the benefit of patient care. I just wanted to point this out that this bill

doesn't add citizens obviously but input is still on the boards.

I just want to briefly go over a couple of things and that is, the public control and in-house control, which hopefully, oversee these programs and the way that hospitals spend money. The public control of it is cut and dried. There are basically four arenas, there is the Health Care Finance Commission or Cost Containment Legislation, which provides for total access to all financial records to the public. There is the CON process, the Certificate of Need process, which provides for all applications for change, whether that be in expanding or decreasing services to the public. The State Licensing Program, all information concerning licensing or possible and/or equipment of services in hospitals are available to the public in full. The Medicare program, federal audits, those are also available for public access. Then there is the inhouse control, which is one that I really didn't know about until recently, which is the JCAH, the Joint Commission of Accreditation of Hospitals, which is a continual accreditation on overseeing of the programs of hospitals and their functions. There are independent audits. Most boards in the state of nonprofit hospitals have independent audits and those audits review the management techniques and those reports are presented to the board for their analysis. There is also the peer review process and this is important because the peer review process strictly provides within state statute for confidentiality and I think that is important to know.

I hate to go against the Representative from Rockland on this because her heart is definitely in the right place. I think, however, that this would cause more problems that it would solve, and I think it is important to note and reiterate what the Representative from York said, Representative Rolde, and this statement I am about to make also goes along with his amendment and that is, this is not a change in statute but is the beginning erosion of the Freedom of Access Law. As he said, it changes the word "officials" in the Freedom of Access Law to "persons" and for the first time, we are bringing a private entity onto the same level as a public or governmental agency. This is bad public policy and I would hope that you would vote in favor of the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

Representative SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of the pending motion "Ought Not to Pass" and I would like to speak on a couple of the practical problems it would give the hospitals in carrying out their confidential reviews that are legally required in the state.

The Maine House Security Act imposes several duties on hospital boards. For example, boards must assure that the clinical privileges of doctors are in accordance with their training, experience and competence. Also, they must establish a program for monitoring the quality and the necessity of medical care. Moreover, there is a statute that governs the Board of Registration in medicine and directs that all proceedings and records of proceedings conducted by hospitals on medical staff reviews and hospital reviews be confidential.

Representative Melendy's bill and her amendment would work contrary to this body of Maine law and against the important hospital board functions described earlier. The truth of the fact of such public scrutiny will have an inevitable chilling effect on free and open deliberations by the board.

I must ask my colleagues, which one of you would openly discuss a hospital infection, perhaps a routine occurrence, a disclosure of which could easily create fear in the community and among hospital patients? Which one of you would openly discuss the competence of

a physician with the prospect of law suits for slander? It is true that L.D. 1235 provides for executive sessions but the conditions allowed for such sessions are narrow and would not cover many of the sensible hospital duties already mentioned. For example, the Maine Freedom of Access Law permits deliberation in executive session of the employment, demotion, promotion, resignation and discipline or dismissal of public employees but that law simply does not make clear whether physicians, psychologists, or other health professionals, who are not full-time employees of the hospital, would be allowed in executive session. Even an executive session were held and a person, including a patient or his or her attorney, who complained against the health professionals, would have a right under law to be present.

Finally, the results of the executive session would become public since final approval of any official action must be made openly. It should, therefore, be obvious to the members of this chamber that requiring meetings of hospital boards to be open to the public will compromise the ability of hospitals to deal with sensitive and serious issues related to public health. Further, it would engender fear in the mind of the public with misinterpretation of board deliberation and attempted resolution of problems on professional competence, quality and care.

In some, this bill and the Melendy Amendment, work directly contrary to the existing body of Maine law, which sets forth the duty of hospital governing boards and promises them confidentiality in exercising them. The bill would no doubt discourage public minded citizens from serving on hospital boards and it would hinder full and fair decision making on issues that are either too sensitive for public discussion or too susceptible to misinterpretation.

I hope you vote yes on the pending motion. The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise as a former trustee of the Miles Memorial Hospital. I served in that capacity for 12 years. I was very proud of my service there.

One of the things that we accomplished during that time that I was trustee was to raise a little over \$2 million to rebuild Miles Memorial Hospital and I can tell you that in that fund raising effort the feasibility study was closely examined, the strategy of the fund raising campaign was carefully reviewed and gone over with a fine tooth comb—now, if we are going to open up the board meetings of every nonprofit organization in this state, we are going to subject the fund raising activities of each organization to that kind of public scrutiny.

While I served on the board at Miles, we had one doctor who became a problem, that particular was one of the better physicians in the community but just couldn't get around to keeping the patient charts up to date and it ended up with our disciplining that doctor internally and that kind of criticism, had it been made public, would have injured the reputation of that doctor materially. I might say that the doctor is no longer practicing in our community but the professional standing of that doctor could have been terribly impaired had this question of record keeping come up in a public fashion.

The Representative from Scarborough mentioned a law firm and a lawyer, a letter that he had received from that lawyer and the number of lawyers on the letterhead and I presume it was the law firm of Preti, Flaherty and Beliveau, because I received a similar letter and in that particular letter, there are adequate citations to the question of law, constitutional law, on equal protection and if the

gentleman from Scarborough would take time to read those cases, I believe that he would find that this bill is fatally flawed by the unequal protection under the law, that it would put the nonprofit hospitals in an unequal position with the profit hospitals and, therefore, this bill should not go into law.

Speaking from my experience as a trustee over a good many years, I say that there are many confidential matters that come before a hospital board. One of the other speakers alluded to the infection rate and there are other things that I think the trustees should delve into in their conduct of their business in running the hospitals. It certainly would have a chilling effect on the improvement of service and the protection of the public if all of these matters were to be discussed in public rather than in the confidentiality of a hospital board.

I urge you to go with the Majority Report in this case.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Foster.

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: Two years ago, this same bill appeared before the Judiciary Committee. We looked into it and decided to give it a unanimous "Ought Not to Pass"; in deference to the sponsor, we gave her a "Leave to Withdraw." I will tell you why we gave her "Leave to Withdraw" because Representative Melendy is a fighter and she has somewhat of a local problem over there in their area and she is fighting to get her board meetings open to the public. I respect her for trying to do this.

We have a Mr. McGinty, who runs a program at Human Services, to the tune of over a million dollars a year. It is called cost containment and let me tell you what cost containment means. It means that the Maine Health Care Finance Commission regulates every aspect of a hospital's finances and expenditures of public money. This commission established annually overall financial requirements of a hospital and the gross patient services revenue limits. The commission must approve any reorganization by a hospital or an affiliated interest, i.e. the nursing homes that I have heard mentioned and hospitals must report any significant transactions of \$10,000 or more. Hospitals must file with the commission patient discharge summaries protecting individual patient identities. Hospitals must also file a wide variety of financial data. With the exception of individual patient records and certain competitive information, all hospitals filings are already available to the public. With those facts in mind, Mr. Speaker, I ask that this bill and all its accompanying papers be indefinitely postponed.

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

Representative INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to respond to the Representative from Scarborough, Representative Warren. With any discussion relating to patient information, we are risking invasion of privacy. Representative Warren compares it to the Sears case—we are not discussing curtains and wheelbarrows, we are discussing peoples private and personal lives.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Brodeur.

Representative BRODEUR: Mr. Speaker, Members of the House: I would just like to respond to two points that were raised by Representative Foster relating to hospital cost containment. She referred that the House Finance Commission has the authority to look at all financial matters in detail and that is correct, they do, but they do only set the total overall ceiling costs and do not interfere with the itemized issues relating to the setting of the overall financial resource required by the hospital.

The second point is that the commission has the right to look at corporate reorganization to make sure that that corporate reorganization doesn't serve to undermine or find a loophole within the hospital cost containment law.

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: I want to commend the people who brought this bill to us. I am the chief executive officer, a big name now, executive director of a private nonprofit corporation, Shalom House Incorporated in Portland, dealing with mental illness, people recovering from mental illness, and I support this bill. I am supposed to know everything as the head of that organization and they jolted me out of my ignorance. I thought, because of all the advantages we have as a tax exempt organization, for sure that our meetings were open to the public, not that anybody ever wants to come but they certainly were open and whenever an issue has come up about somebody being there, I have always said, there is absolutely no problem. Anyway, we would have to by law. My ignorance has been cured. However, I still think that by having these kind of organizations open to the public are a good idea. I think, no matter what happens to this bill, all of us who deal with nonprofit, had better hear the message. This issue is not going to go away and I am certainly dealing with open meetings and policies dealing with when meetings need to be closed. Certainly my own board doesn't get all the confidential information that people here are talking about, we have some very tight restrictions on that just from a good management point of view. So, I think we should hear the message and I say, if this is passed, hospitals, you will get used to it. Non-profits, you will get used to it. I am sure that this legislature, when work sessions were changed from being very closed to very public, I bet this legislature didn't think they could operate. I am sure that municipalities didn't think it could operate under laws that changes public access. Congress didn't think that they could be scrutinized with cameras; courts didn't think cameras should be let in—they got used to it, they are getting used to it and I would say that we should get ready, those of use who deal with nonprofits and yes, the sacred hospitals should get used to it too. It is time that we opened these groups up to their communities.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to make one correction. It was alluded to that I had been given a "Leave to Withdraw" on this same bill in Judiciary. I never had this bill heard in Judiciary as myself as a sponsor so I was not given a "Leave to Withdraw."

Just to make a couple of other quick notations before we take a vote. Hospitals aren't already open. We do have some that are running by open rolls so why haven't they run into problems that people in this House are projecting will happen?

Regarding the fund raising that Representative Stetson spoke about, if people are more informed, they would be more apt to make larger donations so that would help them also.

One other thing that has not been brought up is three members of this House sent out this question in their questionnaire and from the communities that responded, they were 8 to 1 in favor of opening up board meetings in my community. In Bangor, there were two communities who had a questionnaire sent to them and 3 to 1 were in favor so if you really spoke to people, they want it, and I hope you will let them have it.

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 Scarborough, Representative Warren.

Representative WARREN: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I want to respond to the comments from my good friend and fellow barrister, the Representative from Damariscotta, Representative Stetson, I have, at his suggestion, re-reviewed the letter from the hospital association and I do see some citations for some of the issues, which I will try to read at some point when I get a chance, but I don't see any citations for the proposition that personnel matters cannot be discussed in executive sessions and those are things that I really want to see a citation on. I am convinced that personnel matters are always subject to being exempt from the Right to Know Law.

The SPEAKER: The pending question before the House is the motion of the Representative from Ellsworth, Representative Foster, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 102

YEAS:—Aliberti, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Boutillier, Bragg, Brown, A.K.; Cahill, Callahan, Carrier, Carter, Chonko, Clark, Conners, Cooper, Cote, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Dillenback, Drinkwater, Duffy, Erwin, Farnum, Foss, Foster, Greenlaw, Hale, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Joseph, Kane, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Martin, H.C.; Masterman, Matthews, McCollister, McHenry, Michaud, Moholland, Murphy, E.M.; Murray, Nadeau, G.G.; Nelson, Nicholson, Nickerson, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perry, Pines, Pouliot, Racine, Randall, Rice, Richard, Ridley, Roberts, Rolde, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, C.B.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Tammaro, Tardy, Taylor, Telow, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Whitcomb, Zirkilton

NAYS:—Allen, Baker, H.R.; Beaulieu, Bost, Brannigan, Brodeur, Carroll, Cashman, Coles, Connolly, Crouse, Diamond, Handy, Higgins, H.C.; Hoglund, Jacques, Jalbert, Lacroix, Manning, Mayo, McGowan, McSweeney, Melendy, Michael, Mills, Mitchell, Nadeau, G.R.; O'Gara, Reeves, Rotondi, Ruhlin, Rydell, Swazey, Warren, Willey

ABSENT:—Brown, D.N.; Gwadosky, McPherson, Murphy, T.W.; Priest, Rioux, The Speaker  
109 having voted in the affirmative and 35 in the negative with 7 being absent, the motion did prevail. Sent up for concurrence.

#### Consent Calendar First Day

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

(H.P. 632) (L.D. 900) Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Department of Inland Fisheries and Wildlife Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee

Amendment "A" (H-226)

(H.P. 1003) (L.D. 1445) Bill "An Act to Require Recognition of Nursing Licenses Granted in other Jurisdictions" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-227)

(H.P. 663) (L.D. 946) Bill "An Act Relating to Requirements for Removal of Mobile Homes from Mobile Home Parks" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-228)

(H.P. 945) (L.D. 1354) Bill "An Act Concerning the Payment of Interest on Mortgage Escrow Accounts" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-229)

(H.P. 765) (L.D. 1085) Bill "An Act to Provide for Motor Vehicle Registration and Inspection at the Same Time" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-230)

(H.P. 785) (L.D. 1118) Bill "An Act Providing for the 1985 Amendments to the Finance Authority of Maine Act" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-231)

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

#### Consent Calendar Second Day

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

(H.P. 852) (L.D. 1208) Bill "An Act to Amend the Liquor Laws" (C. "A" H-213)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed as amended and sent up for concurrence.

(H.P. 274) (L.D. 344) Bill "An Act to Amend the Election Laws" (C. "A" H-214)

On objection of Representative Diamond of Bangor, was removed from Consent Calendar, Second Day.

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

Committee Amendment "A" (H-214) was read by the Clerk.

On motion of Representative Diamond of Bangor, tabled pending adoption of Committee Amendment "A" and tomorrow assigned.

(H.P. 1037) (L.D. 1511) Bill "An Act Concerning Unemployment Compensation Contributions by Home Knitting Businesses" (C. "A" H-215)

(H.P. 936) (L.D. 1342) RESOLVE, Relating to the Development of an Interdepartmental Plan to Identify Needed Resources for a Statewide Network of Out-of-Home Placements and Aftercare, Follow-up and Transitional Services (Emergency) (C. "A" H-216)

(H.P. 1026) (L.D. 1478) Bill "An Act to Reauthorize the Forest Resource Assessment and Marketing Program" (Emergency) (C. "A" H-217)

(H.P. 1027) (L.D. 1479) Bill "An Act to Establish a 5-day Special Muzzle-loading Hunting Season" (C. "A" H-221)

(H.P. 723) (L.D. 1032) Bill "An Act Relating to the Regulations and Distribution of Funds for All-terrain Vehicles" (C. "A" H-222)

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

**Passed to Be Engrossed  
As Amended**

Bill "An Act to Clarify the Discretionary Authority of the Harness Racing Commission to License Pari-Mutuel meets and Assign Racing Dates" (H.P. 790) (L.D. 1120) (C. "A" H-162)

Bill "An Act to Establish Pilot Indigency Screening Units for Court Appointed Counsel" (S.P. 336) (L.D. 899) (C. "A" S-91)

Bill "An Act to Update and Improve the Education Laws of Maine" (H.P. 801) (L.D. 1135) (C. "B" H-201)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

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

#### Consent Calendar

##### First Day

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

(H.P. 1056) (L.D. 1536) Bill "An Act to Permit the Incorporation of Subsidiary Trust Companies" (Emergency) Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-238)

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

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

#### Papers from the Senate

The following Communication:

The Senate of Maine  
Augusta

May 28, 1985

The Honorable Edwin H. Pert  
Clerk of the House  
112th Legislature  
Augusta, Maine 04333  
Dear Clerk Pert:

Please be advised that the Senate Insisted to its previous action whereby it accepted the Minority Ought Not to Pass Report on Bill "An Act to Improve Remedies for Violations of Used Car Laws." (H.P. 806) (L.D. 1152)

Thank you.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine  
Augusta

May 28, 1985

The Honorable Edwin H. Pert  
Clerk of the House  
112th Legislature  
Augusta, Maine 04333  
Dear Clerk Pert:

Please be advised that the Senate Adhered to its former action whereby it accepted the Ought Not to Pass Report on Bill "An Act to Increase the Handling Fee for Returnable Containers" (S.P. 93) (L.D. 291).

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Permit the Manufacture and Sale of Higher Efficiency Laundry Detergents" (S.P. 604) (L.D. 1598)

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

(The Committee on Reference of Bills has suggested reference to the Committee on

Energy and Natural Resources.)

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

#### Ought to Pass in New Draft

Report of the Committee on Energy and Natural Resources on Bill "An Act to Restructure the Duties and Funding of the Maine Land Use Regulation Commission" (Emergency) (S.P. 448) (L.D. 1251) reporting "Ought to Pass" in New Draft (S.P. 606) (L.D. 1600)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-136).

Report was read and accepted. The New Draft read once.

Senate Amendment "A" (S-136) read by the Clerk.

Representative Michaud of Medway moved indefinite postponement of Senate Amendment "A."

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

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

Could the gentlemen explain to the House why we would want to indefinitely postpone Senate Amendment "A"?

The SPEAKER: The Representative from Scarborough, Representative Higgins, has posed a question through the Chair to the Representative from Medway, Representative Michaud, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: This report was the unanimous committee report from the Committee on Energy and Natural Resources. The good Senator from Aroostook offered what is now a Senate Amendment before the committee and we chose not to adopt it.

Right now as the bill stands, it allows for one person from the Unorganized Territory to be on the commission. What this bill will do is that it will allow one person from a Plantation and it was the unanimous report of the committee and they felt that one member from the seven member commission should be on the board. It shouldn't be from a Plantation, it should be from the whole Unorganized Territory.

Whereupon, Senate Amendment "A" was indefinitely postponed. The Bill was assigned for second reading later in today's session.

#### Ought to Pass in New Draft

Report of the Committee on Legal Affairs on Bill "An Act Relating to Absentee Voting for Residents of Coastal Islands" (S.P. 61) (L.D. 87) reporting "Ought to Pass" in New Draft (S.P. 607) (L.D. 1601)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

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

#### Ought to Pass in New Draft

Report of the Committee on Legal Affairs on Bill "An Act Relating to the Selection of Counters under the Election Laws" (S.P. 360) (L.D. 981) reporting "Ought to Pass" in New Draft (S.P. 608) (L.D. 1602)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

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

#### Ought to Pass in New Draft

Report of the Committee on Legal Affairs on Bill "An Act to Change Voting Booth Requirements" (S.P. 113) (L.D. 328) reporting

"Ought to Pass" in New Draft (S.P. 609) (L.D. 1603)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

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

#### Ought to Pass in New Draft

Report of the Committee on Transportation on Bill "An Act to Amend Certain Motor Vehicle Laws" (S.P. 56) (L.D. 75) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 605) (L.D. 1599)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

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

#### Ought to Pass in New Draft

Report of the Committee on Taxation on Bill "An Act Concerning Tax Exemptions for Certain Pollution Control Facilities" (S.P. 188) (L.D. 506) reporting "Ought to Pass" in New Draft (S.P. 602) (L.D. 1578)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

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

#### Ought to Pass in New Draft

Report of the Committee on Legal Affairs on Bill "An Act Concerning the Licensing of Small Maine Breweries" (S.P. 343) (L.D. 934) reporting "Ought to Pass" in New Draft (S.P. 603) (L.D. 1579)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

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

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

Report of the Committee on Business and Commerce on Bill "An Act Relating to Collateral and Terms of Consumer Loans under the Maine Consumer Credit Code" (S.P. 146) (L.D. 413) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to Collateral and Terms of Credit Transactions Under the Maine Consumer Credit Code" (S.P. 612) (L.D. 1605)

Came from the Senate, with the Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-137).

Report was read and accepted. The New Draft read once.

Senate Amendment "A" (S-137) read by the Clerk and adopted and the New Draft assigned for its second reading later in today's session.

#### Divided Report

Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-107) on Bill "An Act to Create the Advisory Commission on Radioactive Waste to Replace the Low-level Waste Commission" (Emergency) (S.P. 247) (L.D. 642)

Signed:

Senators:

USHER of Cumberland

KANY of Kennebec

EMERSON of Penobscot

Representatives:

MICHAUD of Medway

JACQUES of Waterville

MITCHELL of Freeport

COLES of Harpswell

HOGLUND of Portland

HOLLOWAY of Edgecomb  
Minority Report of the same committee  
reporting "Ought Not to Pass" on same Bill.  
Signed:

Representatives:

RIDLEY of Shapleigh  
DEXTER of Kingfield  
BROWN of Livermore Falls  
LAW of Dover-Foxcroft

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-107) as amended by Senate Amendment "A"  
(S-134) thereto and Senate Amendment "A"  
(S-115)

Reports were read.

On motion of Representative Michaud of  
Medway, the Majority "Ought to Pass" Report  
was read and accepted and the Bill read once.

Committee Amendment "A" (S-107) was read  
by the Clerk.

Senate Amendment "A" (S-134) to Commit-  
tee Amendment "A" (S-107) was read and  
adopted.

Senate Amendment "A" (S-115) to the Bill  
was read by the Clerk and adopted and the Bill  
assigned for second reading later in today's  
session.

#### Divided Report

Majority Report of the Committee on Educa-  
tion reporting "Ought Not to Pass" on Bill  
"An Act to Amend the Nuclear Issues Clear-  
house Law" (S.P. 561) (L.D. 1490)

Signed:

Senator:

HICHENS of York

Representatives:

MATTHEWS of Caribou  
FOSS of Yarmouth  
BROWN of Gorham  
SMALL of Bath  
LAWRENCE of Parsonsfield  
O'GARA of Westbrook  
ROBERTS of Farmington

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

Signed:

Sensors:

GAUVREAU of Androscoggin  
BROWN of Washington

Representatives:

CROUSE of Caribou  
BOST of Orono  
HANDY of Lewiston

Came from the Senate with the Minority  
"Ought to Pass" Report read and accepted and  
the Bill passed to be engrossed.

Reports were read.

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

Representative BROWN: Mr. Speaker, I move  
the acceptance of the Majority "Ought Not to  
Pass" Report.

Mr. Speaker, Men and Women of the House:  
Current law has established a clearing house  
in the Department of Educational and Cultural  
Services for the collection of informative  
material on nuclear issues. I served on the  
Education Committee two years ago when this  
passed and I reluctantly went along with it.  
Now, as the result of meetings by the Citizens  
Civil Emergency Commission, they came back  
with a bill that requires the Department of  
Education to develop age appropriate cur-  
riculum using the informative material col-  
lected and to provide technical assistance to  
schools wishing to implement that curriculum.  
The group was satisfied with what was ac-  
complished two years ago but, like the camel,  
they keep coming back until they are all the  
way in. This would create an advocate position  
in the Department of Education, the cost be-  
ing for 1985 and 1986, \$31,237; in 1986 and  
1987, \$41,708 and this would be an ongoing  
program.

I would ask you to support the Majority  
"Ought Not to Pass" Report.

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

Representative HANDY: Mr. Speaker,  
Members of the House: This bill is a result of  
a number of hearings that were held across the  
state last year and is recommended by the  
Citizens Civil Emergency Commission as a  
result of their comprehensive study of civil  
emergency preparedness in our state.

What they are merely suggesting is that there  
be someone who could act as an individual and  
provide materials for curriculum study for  
students across the State of Maine in our  
schools. This individual would serve in that  
position and not as an advocate of one posi-  
tion or another on the issue of nuclear  
destruction.

I would urge you to reject the motion before  
you so we could go on and accept the "Ought  
to Pass" Report.

The SPEAKER: The Chair recognizes the  
Representative from Farmington, Represent-  
ative Roberts.

Representative ROBERTS: Mr. Speaker,  
Ladies and Gentlemen of the House: When this  
bill was passed a couple of years ago, it was  
said that all that needed to be done was put  
materials available in the state department.

We had a hearing that I suppose ran three  
or four hours, we had dozens of people speak  
to us and we sympathized with their very  
strong feeling about nuclear war but it seem-  
ed that almost no one has used that materials  
during the last year. They say that they want  
an advocate in the state department to go to  
the schools and tell them about using these  
materials — this would be a very delicate posi-  
tion. The people who spoke to us seemed to  
be very long on telling us about nuclear war  
and very short on telling us how that person  
would act in the schools to promote those  
materials. To the majority of the committee, it  
just did not seem wise to spend \$30,000 to  
\$40,000 a year on this program which would  
require sort of a super person to decide how  
they are going to push the program of nuclear  
awareness in the schools.

I urge you to support the motion of Chair-  
man Brown.

The SPEAKER: The Chair will order a vote.  
The pending question before the House is the  
motion of the Representative from Gorham,  
Representative Brown, 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.

98 having voted in the affirmative and 19 in  
the negative, the motion did prevail. Sent up  
for concurrence.

#### Bill Held

The SPEAKER: The Chair recognizes the  
Representative from Harrison, Representative  
Jackson.

Representative JACKSON: Mr. Speaker, is the  
House in possession of: Bill "An Act to Clarify  
Taxpayer Information on Local Property Tax  
Bills" (H.P. 1070) (L.D. 1551)?

The SPEAKER: The Chair would answer in  
the affirmative having been held at the  
Representative's request.

Representative Jackson of Harrison moved  
that the House reconsider its action whereby  
L.D. 1551 was passed to be engrossed.

The SPEAKER: The Chair recognizes the  
Representative from Harrison, Representative  
Jackson.

Representative JACKSON: Mr. Speaker,  
Ladies and Gentlemen of the House: The  
reason I asked this is that we have an amend-  
ment prepared to present to this L.D. and I  
would hope that the Majority of this body  
would reconsider its action whereby it was  
passed to be engrossed.

Whereupon, the House reconsidered its ac-  
tion whereby L.D. 1551 was passed to be  
engrossed.

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

Representative TARDY: I present House  
Amendment "A" (H-183) and move its  
adoption.

House Amendment "A" (H-183) was read by  
the Clerk.

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

Representative TARDY: Mr. Speaker, Ladies  
and Gentlemen of the House: This amendment  
does two things. It adds an emergency preamble  
so that the taxpayer information will be  
available and effective with this years tax bills.

Yesterday, I voted for the ultimate in local  
control when we raised the maximum interest  
rate that we could charge on delinquent tax  
bills; today, think of this as the maximum in  
local option. It provides that this information  
be made available either on the tax bills or in  
the annual municipal town report. I submit to  
you that the town report is required by law to  
be issued and it is a permanent and lasting  
record of our actions and I urge you to support  
passage of this amendment.

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

Representative WEBSTER: Mr. Speaker,  
Ladies and Gentlemen of the House: As a  
member of my town council for six years prior  
to coming to this legislature, I know the value  
of state revenue sharing to our property tax-  
payers. I also know the value of giving the  
municipal officers some flexibility in ad-  
ministering state mandate such as this one.

The amendment of the Representative from  
Palmyra, Representative Tardy, is an excellent  
compromise as it addresses both the concerns  
of the legislature and of our municipalities.

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

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

Is this amendment properly before the body?  
It seems to me, Mr. Speaker, that this amend-  
ment does exactly what a bill, that this House  
killed several days ago, did.

Tabled, pending ruling from the Chair.

#### Bill Held

The SPEAKER: The Chair recognizes the  
Representative from Dover-Foxcroft, Repre-  
sentative Law.

Representative LAW: Mr. Speaker, is the  
House in possession of: Bill "An Act to Protect  
Freshwater Wet Lands" (H.P. 567) (L.D. 838)?

(In House — Passed to be engrossed as  
amended by Committee Amendment "A"  
(H-191))

The SPEAKER: The Chair would answer in  
the affirmative having been held at the  
Representative's request.

On motion of Representative Law of Dover-  
Foxcroft, the House reconsidered its action  
whereby L.D. 838 was passed to be engrossed.

On further motion of the same Represent-  
ative, the House reconsidered its action  
whereby Committee Amendment "A" (H-191)  
was adopted.

The same Representative offered House  
Amendment "A" (H-206) to Committee  
Amendment "A" and moved its adoption.

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

The SPEAKER: The Chair recognizes the  
Representative from Dover-Foxcroft, Repre-  
sentative Law.

Representative LAW: Mr. Speaker, Ladies  
and Gentlemen of the House: This amendment that  
I proposed changes the responsibility of who  
makes the determination when a permit is ap-



plied for. The present law states that "if the applicant for a wetlands permit demonstrates to the satisfaction of the board that the proposed activity will not unreasonably result in any of the standards." What I propose is that the board shall grant a permit on such terms as it determines are necessary to ensure that the proposed activity will not unreasonably result in that same set of criteria.

The reason for this is that all things being equal, it would cost the state the same amount of money to do the investigation to get these permits issued but they are not equal. The BEP has the expertise, they know what they want, and they know what others are doing on the same wetlands.

I would like to read the Statement of Fact on the new one. "It is agreed that the wetlands in the state need to be protected. It is also agreed that both landowner and the public have certain rights and with those rights, come responsibility. The owner must submit to certain restrictions to his land, must pay the cost for all requirements necessary to fill those restrictions. It is unreasonable that the landowner is also required to demonstrate the need for and to what extent those restrictions are necessary. The public, through the Department of Environmental Protection, should determine when and to what degree restrictions are necessary." They are the ones with the expertise. Only they know what they will require.

I would hope that you would accept this amendment.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Michaud.

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

When I apply for a building permit in town, I have to prove that my plans meet the standards. In this case, what Representative Law is presenting, the applicant knows what he wants to do with his land that is involved and he is better at analyzing the impact of the project. I think this is bad public policy to have the department come in and tell you how you are going to do your project. You are better at analyzing what you are going to do with it so I would hope that you would support me in indefinitely postponing this amendment.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Medway, Representative Michaud, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

68 having voted in the affirmative and 38 in the negative, the motion did prevail.

Whereupon, Committee Amendment "A" was adopted.

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

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

#### Reports of Committees

Representative ALLEN from the Committee on Judiciary on Bill "An Act Requiring the Presence of a 2nd Physician when Abortions are Performed after Viability" (H.P. 109) (L.D. 134) reporting "Ought Not to Pass"

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

#### Consent Calendar

##### First Day

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

(S.P. 294) (L.D. 783) Bill "An Act to Promote Free Enterprise in the Banking and Insurance Industries" Committee on Business and Com-

merce reporting "Ought to Pass" as amended by Committee Amendment "A" (S-119)

(S.P. 185) (L.D. 503) Bill "An Act to Require the State to Comply with Municipal Ordinances Governing the Construction of Buildings" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-123)

(H.P. 427) (L.D. 607) Bill "An Act to Amend the Statute of Limitations in Cases Involving Incest" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-233)

(H.P. 921) (L.D. 1336) Bill "An Act to Provide Adequate Facilities for the Public Utilities Commission" (Emergency) Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-234)

(H.P. 514) (L.D. 719) Bill "An Act Defining the Right of Employees of Public Utilities to Testify before Legislative Committees and the Public Utilities Commission" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-235)

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

#### (Off Record Remarks)

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

On motion of Representative Strout of Corinth.

Recessed until four o'clock in the afternoon.

(Off Recess)

4:00 p.m.

The House was called to order by the Speaker.

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

#### Papers from the Senate

The following Communication:

THE SENATE OF MAINE

Augusta

May 29, 1985

The Honorable Edwin H. Pert

Clerk of the House

112th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

Please be advised the Senate today Adhered to its previous action whereby it accepted the Minority Ought Not to Pass Report on Bill, "An Act to Authorize Counties, Municipalities and Other Political Subdivisions to Purchase Deferred Compensation Instruments from Financial Institutions, Insurance Companies and Investment Firms." (H.P. 349) (L.D. 470)

Thank you.

Sincerely,

S/ Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

THE SENATE OF MAINE

Augusta

May 29, 1985

The Honorable Edwin H. Pert

Clerk of the House

112th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

Please be advised the Senate today voted to Adhere to its previous action whereby it accepted the Majority Ought Not to Pass Report on Bill, "An Act Concerning an Oil Booming Exemption for Oil Transfer Vessels in Searsport Harbor" (Emergency) (H.P. 898) (L.D. 1293)

Thank you.

Sincerely,

S/ Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

#### Non-Concurrent Matter

Bill "An Act to Amend the Law Relating to Deputy Sheriffs, Appointments and Removal" (S.P. 312) (L.D. 801) (C. "A" S-93) which failed of Passage to be Engrossed in the House on May 28, 1985.

Came from the Senate with that Body having Insisted on its former action whereby the Bill was Passed to be Engrossed as amended by Committee Amendment "A" (S-93) in non-concurrence.

Representative Smith of Island Falls moved that the House recede and concur.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope that the House will not go along with the motion of the gentleman from Island Falls. Yesterday, this body killed this particular piece of legislation. I hope you will go along with the argument that are as valid today as they were yesterday. I hope you will defeat the motion to recede and concur.

I ask for a Division.

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

Representative SMITH: Ladies and Gentlemen of the House: I don't know exactly what was explained here yesterday but the intent of this bill is when the deputies are appointed by elected sheriffs they stay until he is removed from office and, at that time, when a new sheriff is elected, then if he is from a different party or someone that he doesn't like, he removes them. This bill would allow the county commissioners to have a voice in that matter. It is a protection for people you have trained, sent to the academy for the hours used to learn the business and then they are let go because of political differences and this bill would allow them to go to the county commissioners before they are removed. I think it is a good bill.

Representative Baker of Portland requested a roll call.

The SPEAKER: 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 Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I am a member of the Local and County Government and prior to listening to Representative Paradis yesterday, I did not take into consideration that the deputies are part of a contractual agreement and when I cast my vote in favor to make a unanimous it was without taking into consideration this fact. Now having the knowledge, I am going to have to change my vote and go along with the Representative from Augusta.

The SPEAKER: The pending question before the House is the motion of the Representative from Island Falls, Representative Smith, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 103

YEAS:—Aliberti, Armstrong, Baker, H.R.; Beaulieu, Bott, Brown, A.K.; Callahan, Carroll, Connolly, Crouse, Daggett, Dexter, Diamond, Erwin, Gwadosky, Handy, Hayden, Hichborn, Law, Lawrence, Lebowitz, Lord, Macomber, Masterman, Mayo, McCollister, McGowan,



McHenry, Mills, Michel, Murray, Nelson, Nicholson, Paradis, E.J.; Parent, Paul, Richard, Ridley, Roberts, Rotondi, Rydell, Salsbury, Scarpino, Sherburne, Simpson, Smith, C.B.; Smith, C.W.; Stevens, A.G.; Stevenson.

NAYS:—Allen, Baker, A.L.; Begley, Bell, Bonney, Bost, Boutilier, Bragg, Brodeur, Carter, Chonko, Clark, Coles, Connors, Cote, Crowley, Davis, Dellert, Descoteaux, Dillenback, Drinkwater, Duffy, Farnum, Foss, Foster, Greenlaw, Hale, Harper, Hepburn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jacques, Jalbert, Joseph, Kimball, Lacroix, Lisnik, MacBride, Manning, Martin, H.C.; Matthews, McPherson, McSweeney, Melendy, Michael, Michaud, Moholland, Murphy, E.M.; Nadeau, G.G.; Nadeau, G.R.; Nicholson, O'Gara, Paradis, P.E.; Perry, Pines, Priest, Racine, Randall, Reeves, Rice, Rioux, Rolde, Seavey, Small, Soucy, Stetson, Stevens, P.; Swazey, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT:—Brannigan, Brown, D.N.; Cahill, Carrier, Cashman, Cooper, Jackson, Kane, Lander, Murphy, T.W.; Pouliot, Ruhlin, Sproul, Strout, The Speaker.

49 having voted in the affirmative and 87 in the negative with 15 being absent, the motion did not prevail.

On motion of Representative Diamond of Bangor, the House voted to Insist and ask for a Committee of Conference.

#### Non-Concurrent Matter

Bill "An Act to Reduce the Hours Required for Master and Journeymen Electricians" (H.P. 419) (L.D. 599) on which the Majority "Ought to Pass" in New Draft under New Title Bill "An Act to Reduce the Hours Required for Journeymen Electricians" (H.P. 1109) (L.D. 1612) Report of the Committee on Business and Commerce was read and accepted and the New Draft Passed to be Engrossed in the House on May 28, 1985.

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

On motion of Representative Murray of Bangor, the House voted to Insist on its previous action whereby the New Draft was passed to be engrossed.

#### Non-Concurrent Matter

Bill "An Act to Change the Way the Maximum Rate of Interest on Delinquent Taxes is Calculated" (H.P. 244) (L.D. 285) on which the Majority "Ought to Pass" as amended Report of the Committee on Taxation was read and accepted and the Bill passed to be Engrossed as Amended by Committee Amendment "A" (H-197) in the House on May 28, 1985.

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

Whereupon, the House voted to insist on its previous action whereby the Bill was passed to be engrossed as amended.

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

#### Passed to Be Enacted Emergency Measure

An Act to Require Final Usage Labeling for all Surimi Products (H.P. 1052) (L.D. 1528) (S. "A" S-116)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act to Make Allocations from the Maine Hazardous Waste and Low-level Waste Siting Funds for the Fiscal Year Ending June 30, 1986 (S.P. 582) (L.D. 1531)

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. 119 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.

#### Emergency Measure

An Act to Allow the Use of Lobster Fund Money to Provide for Lobster Hatcheries (S.P. 589) (L.D. 1552)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

RESOLVE, Concerning Reauthorization of the \$30,000,000 Bond Issue for the Planning, Construction and Equipment of the Water Pollution Abatement Facilities (H.P. 1101) (L.D. 1609)

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

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Before we act on this Resolve today, I thought it might the Houses attention to this particular issue. When it first crossed our desks less than a week ago, some of us were a little concerned about what this item was because it says a \$30 million bond issue. I simply want to point out for those of you who were in the 111th legislature, we passed a Constitutional Amendment that said that if bond issues had been authorized by the people, but after five years from their authorization, had not been issued, then those specific issues had to come back to the legislature for further authorization. This is the first one that has fallen into that category since that Constitutional Amendment was adopted by the people in the Fall.

As I understand it, out of this \$30 million, \$14 million has already been expended for pollution control facilities in the State of Maine. There is \$16 million left of the bond issue which was, in fact, voted on by the people in November of 1976 so they had to bring this back to us for reauthorization. If we fail to deal with this, then \$16 million would be unavailable for funding sewerage treatment plants in the state. I simply bring this to your attention because it was the intent of that constitutional change to have a positive impact upon how this legislature in the state as a whole deals with its outstanding bonded indebtedness and to raise the consciousness, if you will, of how much money we currently owe. Just as a little background, because the Committee on Appropriations on which I served heard several bond issues last week totaling over \$50 million. That would be in addition to what this bill would authorize. It is currently on the books now but it needs to be reauthorized.

I don't intend asking anybody to vote against it but I simply think its important that we understand what this does and that there are \$50 million worth of additional bonds out there that we are going to have to act on this year, \$20 million of which we already have acted on, as I recall, from the DOT. There are some other requests out there and that we should be aware

of that. At the end of June of this year, we are expected to have \$285 million worth of debt and if you add what this will bring it to along with the proposals that we may be faced with, we could be up well in excess of \$325 million or about a 15 percent increase at the end of this current fiscal year. I simply bring that to your attention to make you aware that this is the first item that is going through and I think it is proper and the way it was intended to do and that we have more to do on this on particular issue.

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

Representative DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: The provision that Representative Higgins just mentioned is a good provision. I believe that he was the author of that and it is something, I think, establishes a good safe policy.

At the time when we discussed this bill in the previous session, two points were brought up where long term issuances of bonds seemed to be of concern and we wanted to single that out, pollution control facilities and transportation bonds.

This bill that we are dealing with now deals with pollution control facilities and that is why the fact that so much of the money, roughly 40 percent, has not been issued as of this point. This should not come as a surprise. These are bond requests that go over longer periods of time. The applications come in almost immediately from the various municipalities that would benefit from it; however, their plans need adopting, the lands must be purchased and, as a result, it takes considerably longer for the application and the project to get started than would follow under normal projects.

I do want to point out that reauthorization won't necessarily have an impact on our overall bonded indebtedness or the concern that has been raised in the past, that we are somehow increasing our bonded indebtedness to the point where our state's credit rating would be affected. This afternoon I talked with Commissioner Rodney Scribner, who reiterated points that have been raised several times in bond issues and that being this formula we use trying to hold in place or hold down the amount of bonds that are issued or approved every year is based on new authorizations and not on existing authorizations and this situation is reauthorization. This is the first of those reauthorizations this legislature has been asked to approve but, again, we are not sending out to the voters an additional sum of money, roughly \$16 million, for their approval or rejection, we are just continuing that approval that came five years ago.

The SPEAKER: This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Make Certain Housekeeping Changes to the Maine Criminal Code. (S.P. 219) (L.D. 578) (C. "A" S-99)

An Act to Clarify the Maine State Retirement System's Board of Trustees' Relationship with the System's Investment Managers. (S.P. 242) (L.D. 637) (C. "A" S-92)

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.

An Act to Clarify the Laws Relating to Landlords and Tenants. (S.P. 308) (L.D. 797) (C. "A" S-106)

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

The SPEAKER: The Chair recognizes the

Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to anyone who would care to answer.

Looking at the Statement of Fact on L.D. 797, it provides under Section 9 the payment of interest on security deposits and I would like to know, what amount of interest would be payable and how would the payment be made? Would this be made payable yearly and what is the amount of interest?

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

The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Men and Women of the House: This bill is amended by Committee Amendment "A" (S-106) and there is no provision for the payment of interest on security deposits in this bill. This is a unanimous report. Had the requirement that a landlord mitigate his damages when the tenant moves from the rental unit before the end of the term is up and owes rent, mitigate those damages by trying to re-rent the unit. It also extends the 30 day notice to people with leases as well as people who are renting on tenancy at will when the rent is going to be raised so there is no security deposit provision in this bill and it was considered a non-controversial bill, agreed on by both sides.

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

An Act to Authorize Sagadahoc County to Raise Funds to Renovate and Expand the Present Court House at Bath. (S.P. 375) (L.D. 1009) (S. "A" S-101 to C. "A" S-94)

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.

#### Tabled and Assigned

An Act to Establish an Aroostook County Budget Committee. (S.P. 310) (L.D. 799) (C. "A" S-98)

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

On motion of Representative Smith of Mars Hill, tabled pending passage to be enacted and tomorrow assigned.

An Act Concerning Commercial Fishing and Maritime Activity Zones (S.P. 365) (L.D. 985) (C. "A" S-90)

An Act Appropriating Funds for Technical Assistance under the Community Development Block Grant Program (S.P. 363) (L.D. 1000) (S. "A" S-100)

An Act to Expand the Number of Elder Volunteers in the Retired Senior Volunteer Programs, Foster Grandparent Programs and the Senior Companion Program (S.P. 387) (L.D. 1066) (C. "A" S-97)

An Act Concerning Programs for the Homeless (S.P. 402) (L.D. 1112) (C. "A" S-108)

An Act to Provide a Class A Lounge Liquor License (S.P. 578) (L.D. 1520)

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.

An Act Relating to County Extension Work in Maine. (S.P. 584) (L.D. 1533)

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

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

Representative McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I would

like to pose a question through the Chair. What does this bill do, and is it expanding the extension service? Is it going to cost more money to the county?

The SPEAKER: The Representative from Madawaska, Representative McHenry, has posed a question through the Chair to anyone who may respond if he so desires.

The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Members of the House: The answer to those questions, as I remember them, are both no. It does not expand the extension services and it does not cost more money. It simply is a bill to clarify the law to do some housekeeping but it was not an expansion of the extension service or the cost.

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

An Act Concerning Unauthorized Transfer and Use of Fuel Obtained Through Fuel Assistance. (S.P. 590) (L.D. 1553)

An Act to Establish a Medicaid Report. (S.P. 592) (L.D. 1555)

An Act to Repeal an Outdated Provision of the Highway Law. (H.P. 124) (L.D. 149)

An Act Pertaining to Interest on Abated Property Taxes. (H.P. 497) (L.D. 700) (C. "A" H-147)

An Act to Amend Calculation of Period of Imprisonment under the Maine Criminal Code. (H.P. 683) (L.D. 969) (C. "A" H-158)

An Act to Modify the Voting Procedure for the Conversion of a Mutual Financial Institution to a Stock Form of Ownership. (H.P. 972) (L.D. 1394) (S. "A" S-109)

An Act to Grant Authority to the Maine State Ferry Advisory Board to Name Ferries and Ferry Terminals. (H.P. 1034) (L.D. 1508) (H. "A" H-182)

An Act Concerning Snowmobile Registration Fund Distribution. (H.P. 1071) (L.D. 1558)

An Act Authorizing a Bond Issue for Penobscot County to Raise Funds to Renovate or Expand the Penobscot County Jail. (H.P. 1102) (L.D. 1610)

RESOLVE, Creating the Commission to Study Emergency Medical Services in Maine. (H.P. 341) (L.D. 458) (S. "A" S-112 to C. "A" H-116)

RESOLVE, to Name the Wiscasset Bridge the Donald E. Davey Bridge. (H.P. 373) (L.D. 492) (Conf. Com. "B" H-187)

RESOLVE, to Authorize Granting a Sewer Line Easement on State Land to the Town of Thomaston. (H.P. 948) (L.D. 1357) (C. "A" H-171)

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.

#### Tabled and Assigned

RESOLVE, Directing County Officials to Manage and Invest County Funds in Accordance with Sound and Prudent Financial Principles" (H.P. 1078) (L.D. 1569)

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

On motion of Representative Diamond of Bangor, tabled pending passage to be enacted and tomorrow assigned.

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

#### Reports of Committees

##### Unanimous Leave to Withdraw

Representative RIDLEY from the Committee on Energy and Natural Resources on Bill "An Act to Assure the Future of Maine's Forest Resources" (H.P. 984) (L.D. 1414) reporting "Leave to Withdraw"

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

#### Divided Report Later Today Assigned

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-237) on Bill "An Act to Increase Fees for Licenses Issued by the Department of Marine Resources" (H.P. 761) (L.D. 1081)

Signed:

Senators:

CHALMERS of Knox  
BROWN of Washington

Representatives:

MANNING of Portland  
MITCHELL of Freeport  
COLES of Harpswell  
VOSE of Eastport  
RUHLIN of Brewer

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

Signed:

Senator:

SHUTE of Waldo

Representatives:

SALSBURY of Bar Harbor  
SCARPINO of St. George  
CONNERS of Franklin  
RICE of Stonington  
CROWLEY of Stockton Springs

Reports were read.

On motion of Representative Vose of Eastport, the House accepted the Majority "Ought to Pass" Report and the Bill read once.

Committee Amendment "A" (H-237) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

#### Consent Calendar Second Day

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

(H.P. 632) (L.D. 900) Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Department of Inland Fisheries and Wildlife Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (C. "A" H-226)

(H.P. 1003) (L.D. 1445) Bill "An Act to Require Recognition of Nursing Licenses Granted in other Jurisdictions" (C. "A" H-227)

(H.P. 663) (L.D. 946) Bill "An Act Relating to Requirements for Removal of Mobile Homes from Mobile Home Parks" (C. "A" H-228)

(H.P. 945) (L.D. 1354) Bill "An Act Concerning the Payment of Interest on Mortgage Escrow Accounts" (C. "A" H-229)

(H.P. 765) (L.D. 1085) Bill "An Act to Provide for Motor Vehicle Registration and Inspection at the Same Time" (C. "A" H-230)

(H.P. 785) (L.D. 1118) Bill "An Act Providing for the 1985 Amendments to the Finance Authority of Maine Act" (C. "A" H-231)

(H.P. 1056) (L.D. 1536) Bill "An Act to Permit the Incorporation of Subsidiary Trust Companies" (Emergency) (C. "A" H-238)

(S.P. 294) (L.D. 783) Bill "An Act to Promote Free Enterprise in the Banking and Insurance Industries" (C. "A" S-119)

(S.P. 185) (L.D. 503) Bill "An Act to Require the State to Comply with Municipal Ordinances Governing the Construction of Buildings" (C. "A" S-123)

(H.P. 427) (L.D. 607) Bill "An Act to Amend the Statute of Limitations in Cases Involving Incest" (C. "A" H-233)

(H.P. 921) (L.D. 1336) Bill "An Act to Provide Adequate Facilities for the Public Utilities Commission" (Emergency) (C. "A" H-234)

(H.P. 514) (L.D. 719) Bill "An Act Defining the Right of Employees of Public Utilities to Testify before Legislative Committees and the Public Utilities Commission" (C. "A" H-235)

No objections having been noted at the end

of the Second Legislative Day, the Senate Papers were Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

#### **Passed to Be Engrossed Tabled and Assigned**

Bill "An Act to Further Competition in the Liquor Trade" (H.P. 1119) (L.D. 1615)

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

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: As I read this bill over, it appears that it sets up the possibility of six additional discount liquor stores in the State of Maine, five more perhaps, I am not sure whether it is just five additional or six in total or just how it is but the point of my objecting to this today is that it seems to me that we ought to have a fiscal note on this bill. One of the reasons why this legislature, in the past, not seen fit to pass discount liquor stores throughout the entire state is it is going to be a loss in revenue. If that is the case, I would maintain that any increase over and above the current one is going to be a loss in revenue so, therefore, I would question some member of the committee or perhaps the Speaker on whether or not this bill ought to have a fiscal note on it.

The SPEAKER: The Chair would advise the Representative from Scarborough, Representative Higgins, that he is correct.

On motion of Representative Higgins of Scarborough, tabled pending passage to be engrossed and tomorrow assigned.

Bill "An Act to Examine the Lobster Resources of the State" (H.P. 1124) (L.D. 1620)

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

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

Representative MITCHELL: Mr. Speaker, Men and Women of the House: Before we pass this bill to be engrossed, I would like to pose a question.

Earlier this afternoon we passed a bill that appropriated quite a bit of money out of the lobster fund to fund lobster hatcheries and this bill is also appropriating money out of the lobster fund and I was wondering if anyone could tell us what the status of the fund is and how much money will be left in it after we pass these two bills?

The SPEAKER: The Representative from Freeport, Representative Mitchell, 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: This lobster fund money that is generated through taking \$13 out of every \$33 fee that the lobster fishermen pay in -- there was about a \$100,000 of this fund available at the end of last year so that using \$40,000 on this study, the commissioner felt that we had plenty of money left to handle this study at this level of \$40,000. There is no problem with the lobster fund.

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

Representative MITCHELL: Mr. Speaker, Members of the House: I would just like to make a comment. If we are bound and determined here to take this \$40,000 and spend it, we could have the Marine Resources Committee come here after we adjourn on the 19th of June and we would have enough money to pay each member of the committee \$3,000 and we

could sit down in the library for three weeks and read about lobsters.

On a more serious note, I would like to pose a question to the Chair:

Will this bill, which has an expenditure from the lobster fund, be required to sit on the Special Appropriations Table in the other body?

The SPEAKER: The Chair would answer in the affirmative.

Representative MITCHELL: Thank you, Mr. Speaker.

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

Bill "An Act to Restructure the Duties and Funding of the Maine Land Use Regulation Commission" (S.P. 606) (L.D. 1600)

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

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Harper.

Representative HARPER: Mr. Speaker, I move that we reconsider our action whereby Senate Amendment "A" (S-136) was indefinitely postponed.

Mr. Speaker, Ladies and Gentlemen of the House: I represent four plantations and one unorganized territory, Macwahoc, Kingman, Drew, Prentiss and Webster. At a meeting in Lincoln, not very many weeks ago, over 60 people from the unorganized territories and the plantations from my district met with representatives of the Land Use Regulatory Commission and, over and over, the complaints expressed were, why do we not have representation on LURC? All we get to do is pay the bills, this is taxation without representation, this is undemocratic and they feel that there is an injustice being done and I feel there is too.

I ask for a roll call.

On motion of Representative Hayden of Durham, tabled pending the motion of Representative Harper of Lincoln that the House reconsider its action whereby Senate Amendment "A" was indefinitely postponed and tomorrow assigned. (A roll call having been requested.)

Bill "An Act Relating to Absentee Voting for Residents of Coastal Islands" (S.P. 607) (L.D. 1601)

Bill "An Act Relating to the Selection of Counters under the Election Laws" (S.P. 608) (L.D. 1602)

Bill "An Act to Change Voting Booth Requirements" (S.P. 609) (L.D. 1603)

Bill "An Act to Amend Certain Motor Vehicle Laws" (Emergency) (S.P. 605) (L.D. 1599)

Bill "An Act Concerning Tax Exemptions for Certain Pollution Control Facilities" (S.P. 602) (L.D. 1578)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were Passed to be Engrossed in concurrence.

Bill "An Act Concerning the Licensing of Small Maine Breweries" (S.P. 603) (L.D. 1579)

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

Representative Reeves of Pittston offered House Amendment "A" (H-241) was read by the Clerk and adopted.

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

#### **As Amended**

Bill "An Act Relating to Collateral and Terms of Credit Transactions Under the Maine Consumer Credit Code" (S.P. 612) (L.D. 1605) (S. "A" S-137)

Bill "An Act to Create the Advisory Commission on Radioactive Waste to Replace to Low-level Waste Commission" (Emergency) (S.P. 247) (L.D. 642) (S. "A" S-134 to C. "A" S-107; S. "A" S-115)

Bill "An Act to Authorize an Award System to Aid in Coyote Control" (H.P. 858) (L.D. 1217) (C. "A" H-224)

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

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

#### **Papers from the Senate**

Bill "An Act Concerning the Bureau of Public Lands" (S.P. 616) (L.D. 1627)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

Under suspension of the rules and without reference to a committee, the Bill was read once and assigned for second reading later in today's session.

Bill "An Act to Authorize Aroostook County to Raise \$2,100,000 for Renovations and Additions to the Aroostook County Jail" (S.P. 617) (L.D. 1628)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Local and County Government.)

Under suspension of the rules and without reference to a committee, the Bill was read once and assigned for second reading later in today's session.

Bill "An Act Relating to Cumberland County Budget Process" (S.P. 618) (L.D. 1629)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Local and County Government.)

Was referred to the Committee on Local and County Government, Ordered Printed, and sent up for concurrence.

#### **Later Today Assigned**

Bill "An Act to Amend the Reapportionment Law" (S.P. 619) (L.D. 1630)

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

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

On motion of Representative Gwadosky, tabled pending reference and later today assigned.

#### **Unanimous Leave to Withdraw**

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Amend the Juvenile Laws to Reflect the Change from Probation and Intake Workers to Juvenile Caseworkers" (S.P. 428) (L.D. 1185)

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

#### **Ought to Pass as Amended Tabled and Assigned**

Report of the Committee on Legal Affairs reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-129) on Bill "An Act Relating to Absentee Voting" (S.P. 32) (L.D. 33).

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-129) as amended by Senate Amendment "A" (S-144) thereto.

Report was read.

On motion of Representative Diamond of Bangor, tabled pending acceptance of the committee report and tomorrow assigned.

#### Ought to Pass as Amended

Report of the Committee on Human Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-133) on Bill "An Act to Protect Applicants and Illegal Trade Practices" (S.P. 229) (L.D. 591).

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-133) as amended by Senate Amendment "A" (S-143) thereto.

Report was read and accepted and the bill read once.

Committee Amendment "A" (S-133) was read by the Clerk.

Senate Amendment "A" (S-143) to Committee Amendment "A" was read by the Clerk and adopted.

Committee Amendment "A" as amended by Senate Amendment "A" thereto was adopted and the Bill assigned for second reading later in today's session.

#### Divided Report

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Amend the Maine Education Statute to Prohibit the Teaching of Alternative Lifestyles in Maine's Public Schools" (S.P. 432) (L.D. 1199)

Signed:

Senators:

BROWN of Washington

GAUVREAU of Androscoggin

Representatives:

BROWN of Gorham

CROUSE of Caribou

BOST of Orono

HANDY of Lewiston

O'GARA of Westbrook

ROBERTS of Farmington

MATTHEWS of Caribou

SMALL of Bath

FOSS of Yarmouth

LAWRENCE of Parsonsfield

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-138) on same Bill.

Signed:

Senator:

HICHENS of York

Came from the Senate with the Bill and accompanying papers Indefinitely Postponed.

Reports were read.

Representative Brown of Gorham moved indefinite postponement of bill and all accompanying papers in concurrence.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Members of the House: I have no qualms about being against the advocacy and the promoting of homosexuality in public schools but I do have very, very strong reservations about the intent of the backers of this bill, who have indicated to me, that this bill was primarily to be used as a vehicle to force legislators to be placed on record for the next election; therefore, I urge you to go along with the vote of indefinite postponement.

Whereupon, the Bill and all accompanying papers were indefinitely postponed in concurrence.

#### Non-Concurrent Matter

Bill "An Act Establish Minimum Energy Efficiency Standards for Major Appliances Sold

in Maine" (H.P. 1096) (L.D. 1589) which was Passed to be Engrossed in the House on May 28, 1985.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S-145) in non-concurrence.

The House voted to recede and concur.

#### Reports of Committees

##### Unanimous Leave to Withdraw

Representative MICHAEL from the Committee on Agriculture on Bill "An Act to Limit Parimutuel Wagering to Agricultural Fairs" (Emergency) (H.P. 1068) (L.D. 1557) reporting "Leave to Withdraw"

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

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

##### Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act Requiring Protective Headgear for all Motorcycle, Motor Driven Cycle and Moped Riders" (S.P. 63) (L.D. 89)

Signed:

Senators:

ERWIN of Oxford

SHUTE of Waldo

Representatives:

SOUICY of Kittery

CALLAHAN of Mechanic Falls

STROUT of Corinth

CAHILL of Woolwich

McPHERSON of Eliot

MACOMBER of South Portland

MOHOLLAND of Princeton

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-121)

Signed:

Senator:

DANTON of York

Representatives:

THERIAULT of Fort Kent

MILLS of Bethel

POULIOT of Lewiston

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

Reports were read.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought Not to Pass" Report.

Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take much of your time this afternoon. We all know what the bill is about. It is the helmet bill for motorcyclists. I think you have all heard the arguments both for and against and I am sure you may hear some more this afternoon. I would just point out to you that the other body, by a substantial margin, has already accepted the Majority "Ought Not to Pass".

The SPEAKER: The Chair would advise the Representative that he may not discuss the results of the vote of the other body even though he has already done so.

Representative MACOMBER: Mr. Speaker, I apologize.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I would like to ask for a Division on this vote and I would like to speak briefly to my motion.

Mr. Speaker, Men and Women of the House: I, too, will be brief. I was asked by the Governor of the State of Maine to be a cosponsor of this bill and I was proud to do it because I believed in it. I think it is a very modest pro-

posal. I think we all know what it means. There are over a million people in this state. There are 40,000 motorcyclists, half of them already wear a helmet. We are talking about 20,000 people, who will cost the State of Maine, if some of them are injured, over a million dollars next year.

When I sent out my questionnaire, the people in my district, when I asked the question about helmets for motorcyclists, 80 percent, 80 percent said yes. I understand that most of you who sent out your questionnaires found out that 73 percent of those people who answered the questionnaires wanted to put helmets on motorcyclists.

Now, I know this bill isn't going very far but I think we ought to make a statement. I am not afraid of any other body in this House. I think we ought to make a statement. It isn't even on the record, it is just a division.

Mr. Speaker, the motion I believe is to accept the Majority "Ought Not to Pass", I hope you people will vote against it.

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

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to explain what the Minority Report does for those of you that don't know. Probably if you look at the bill you would think what it does is require helmets for everybody who rides a motorcycle and what the Minority Report does is, currently under law, right now, anyone who rides a motorcycle their first year has to wear a helmet. Committee Amendment "A" on the Minority Report says that anyone who rides a motorcycle has to ride with a helmet for the first two years. That is all that this bill does if you accept the Minority Report. It is not to make people who already do not wear helmets wear them, which a lot of people were against because they felt they were used to not wearing a helmet and if they suddenly had to wear a helmet it would suddenly throw them off and they might get in an accident. So you will know when you vote, if you want to vote with the Minority Report, many of the motorcyclists who got up there the day of the helmet bill suggested was for us to extend another year onto the time limit that they already have to wear a helmet so people could get used to it and that is what the Minority Report does. It does not require everybody to wear a helmet.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to anyone who may wish to answer it.

I can see where you can enforce the wearing of a helmet for two years because motorcyclists are licensed separately, but as a moped operator, I use my driver's license for my automobile so how would that be enforceable for a moped driver since there is no separate licensing requirement?

The SPEAKER: Representative Racine of Biddeford has posed a question through the Chair to any member who may answer if they so desire.

The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Ladies and Gentlemen of the House: The amendment is to add on a year to motorcyclists who already have to wear helmets, it does not include moped riders. So you have a good point but the point is that it doesn't have anything to do with it.

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

A vote of the House was taken. 73 having voted in the affirmative and 33 in the negative, the motion did prevail.

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

#### Divided Report

Majority Report of the Committee on Judiciary reportin "Ought Not to Pass" on Bill "An Act Concerning Reduction of Damages for Persons not Wearing Safety Belts or Helmets" (H.P. 586) (L.D. 856)

Signed:

Senators:

CHALMERS of Knox  
CARPENTER of Aroostook

Representatives:

PAADIS of Augusta  
ALLEN of Washington  
COOPER of Windham  
PRIEST of Brunswick  
KANE of South Portland  
CARRIER of Westbrook

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-239) on same Bill.

Signed:

Senator:

SEWALL of Lincoln

Representatives:

MacBRIDE of Presque Isle  
STETSON of Damariscotta  
LEBOWITZ of Bangor  
DRINKWATER of Belfast

Reports were read.

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

The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against the Majority "Ought Not to Pass" Report and go with the Minority Report, which contains the committee amendment. I think this is a good bill. This is an effort to try to persuade people to do what they know is right but they don't want to be told by us here in Augusta that you must do it under the penalty of punishment, under the penalty of the law.

This bill simply suggests that if you are involved in a major accident and, at the time of the accident, you were not wearing your seat belt that automatically an arbitrary 20 percent will be lopped off any recovery you might get on account of not wearing the seatbelt. It has been argued that this is unfair in the case of minors. Well, that has been taken out of the original bill. This bill only applies to those who have reached maturity. It only applies to mature drivers who are not wearing their seatbelts. It does not apply in a wrongful death situation. Consequently, it would not be a penalty on the survivors whether they be widows and children or any other survivors who might be affected by virtue of such an accident.

So, it is really telling each and every one of us, you don't have to wear your seatbelt but, if you are involved in an automobile accident and you file a claim with your insurance company claiming injuries, you can expect a 20 percent deduction from that claim as a reminder that it would have been better to wear a seatbelt.

Where does the 20 percent come from? A national survey recently reporting that the wearing of seatbelts in those states where it has been mandated has reduced the damage claims somewhere between 10 and 30 percent. This 20 percent arbitray figure comes right in the middle there. So, when I say arbitrary, it is a pretty good guess, an educated guess.

Therefore, I urge you to go with the Minority, to vote against the pending motion and let's go with the Minority Report, and let's all buckle

up.

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

Representative KIMBALL: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to reject the Majority "Ought Not to Pass" Report so that we can go on to accept the Minority "Ought to Pass" in amended version.

This was my bill. I was the sponsor of L.D. 856 and I would like to explain the origin of the bill as it was an attempt to resolve a dilemma between the issues of freedom of choice and mandation and how, as responsible state government, we could go about recognizing the irrefutable evidence that seatbelts and motorcycle helmets decrease injuries and save lives, how we could go about recognizing that in statute. In an attempt to address resolution between these two issues, this bill proposed an amendment to the present comparative negligence law. At present, this law allows the examination of the degree of negligence of parties involved in accidents for the purposes of awarding damages. It should also be noted that awarding damages is all this bill would affect. It does not affect at fault issue in relationship to the accident. As in the original bill, the amended version sets a standard of 20 percent at the amount of reduction in damages for person choosing to not wear these safety devices. The amended version, however, only applies to adults who are injured in motor vehicle accidents in passenger cars. Thus, the amended bill does not affect the amounts awarded for children or to the families of those who are killed in accidents, not wanting to penalize those families.

Regarding the issue of 20 percent as the arbitrary figure that the good Representative from Damariscotta said, in the June edition of Changing Times magazine, the Kiplinger magazine, I was examining an article that quoted a DOT study that was done in 1984 regarding other states that do not allow seatbelt evidence in court. What they were saying was that in those states that have the comparative negligence law but do not allow that, what they tend to find is that when insurance companies go about working out the reduction in damages between those parties found who do not wear seatbelts at the time of the accident and the time of the injury, they said that the average percentage of reduction in damages for those folks was between 10 and 20 percent, that is where the figure fits in.

Ladies and gentlemen of the House, I believe that we are in a rather unique position. I think that we have got a bill in front of us that would allow us to promote personal responsibility. I think it would allow us to promote personal safety while also maintaining a certain degree of freedom of choice. I think that it is also unique in that we are actually reducing litigation rather than increasing litigation which is something that is unique for us too in terms of passing legislation.

I couldn't get the insurance companies to say that it would cause any decrease in our premiums but I did get them to say that the amount of increase would be more gradual, which I guess we would expect them to say.

I urge you to vote "Ought to Pass" on the amended version and I appreciate your time.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: First of all, I would like to commend the sponsors of this legislation for their attempt to try to find a positive way or an economic incentive to encourage people to wear seatbelts. However, this bill does not accomplish that end. While certainly it involves economic incentive. There are those of us on the committee who believe in economic incentive as far as people buckling up. I, for one, firmly believe that if people are given

economic incentive to wear seatbelts, they will more than likely do that. But my idea of a positive economic incentive runs along the lines of some of the insurance carriers that I have talked to. They are talking in terms of economic incentives that say, if you were killed in an automobile accident while you were wearing a seat belt, we will double the payment, the indemnity payment to your family. As a matter of fact, I think there is an automobile manufacturer that is currently working under that policy. They are talking in terms of giving you a benefit on your rate premium when you pay for your insurance similar to if you have a smoke detector in your house, then you get a reduced premium. If you have taken driver education, then you get a reduced premium. If you are a non-smoker, then you get a reduced premium on your life insurance policy. So hopefully, the insurance industry is working toward a positive economic incentive, one that would say, your premiums rates will be reduced if you wear a seat belt. Of course, it won't be found until the accident occurs just like if there were a fire in your house they wouldn't determine whether or not you had a smoke detector in the house until after the incident occurs.

While I applaud the sponsors and their attempts to find an economic incentive, I submit to you that this is not the correct one, it is the negative one as opposed to a positive one.

This legislature has said loud and clear to the public that you do not have to buckle up and you do not have to wear a helmet. This bill, by the way, also affects helmets. You do not have to do that and we said that loud and clear. As a matter of fact, it made the front pages of most daily newspapers in this state. The headlines didn't say, legislators vote against mandation. The headlines in those papers said loud and clear to your constituents, legislators vote against seatbelts. I submit to you that this legislation, though quietly, probably not making the front pages tomorrow morning, would say to your constituents, what you probably didn't catch was, you don't have to buckle up, but if you are in an accident, your damages are going to be reduced by 20 percent. Well, that might sound good but what does it really mean?

Let's assume that on a quiet Sunday afternoon you are driving down the road with your family, in the morning and you are headed for Church, whatever, and inadvertently you forget to buckle up. Now, you wear your seatbelt 95 percent of the time, and I might add I wear mine 95 percent of the time, but on occasion, my mind wanders and I forget to buckle up right away, but I am usually a conscientious seatbelt wearer, I don't happen to wear it that one morning or that one afternoon and a car runs a stoplight and slams dead into my car. Unfortunately, I am not killed. I am permanently disabled, I am put in the hospital for months. My claims against that driver, will be reduced 20 percent even though I am clearly not at fault. Or, for instance, your next door neighbor is driving down the road and a drunk driver slams into him, crosses the lane, the median, hits him, slams into him, he and his family are seriously injured and hospitalized. He sustains a permanent loss at his job, he can no longer work for the rest of his life. Under normal situations, you would go to court and the injury would determine what the amount of those damages should be. Should he get x-amount of dollars for the rest of his life? How much should his payment be at this time etc., etc., etc.? What the jury would have to take into consideration at this point is we award you this much minus 20 percent. I say there is no basis for that. I think people should buckle up. I think we ought to have a positive incentive to do that but to punish people for not doing it, even if that one time is the one time they don't do it, is the wrong way to go.

I might add at this time that no other state



in the country has a law that does this, no other state, Maine would be the first. I have no problems with being the first state to legislate things, we have done that many times but I don't think this is the appropriate bill to take that step on.

Another thing that I would like to add, this is not a simple issue, I won't get into the many complicating factors that might occur if you went to court in a jury trial. The only people that could possibly benefit from this bill are insurance companies. You are going to be paying 100 percent of your premiums for 20 years, 10 years, whatever, but when it comes time for them to award damages, they are not going to award them on 100 percent basis so the only people that can possibly benefit from this are insurance carriers.

The Representative from Buxton referred to a letter that he received from the Professional Insurance Agents of New England in which they very politically said, it really wouldn't reduce rates but you would see a slower increase. This is from Paul J. Conley, who is the Maine Steering Committee Chair. He says, in reaction to this bill, "it therefore seems inconceivable to me that the legislature could fathom supporting a law which could even suggest that a Maine citizen could not collect 100 percent of a coverage for which he or she has paid a premium." He continued, "surcharges and penalties are really nothing more than first party punitive damages punishment of insurers and claimants for the perceived lack of safety consciousness. I seriously question factoring the concept of indemnity to make whole by imposing punishment on Maine citizens through the insurance mechanism." These words are from an insurance representative in this state. That is what the insurance people have to say about this bill.

Ultimately, what you have to ask yourself is, who benefits?

The SPEAKER: The Chair recognizes the Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to answer the last question, who benefits? We benefit.

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

Representative KIMBALL: Mr. Speaker, Ladies and Gentlemen of the House: While the reduction in damages is certainly something that would take place in each one of those cases, that is exactly true. One of the things that I think we ought to take a look at is that there are lots of different bills that we talk about in this House, we talk about lawyers bills, doctor bills, we talk about psychologists bills for that matter. I think that the Representative from Damariscotta is right, this is our bill.

There are going to be situations where people are going to be injured, that is the nature of what we are talking about in terms of accidents. We are not talking about a person turning 100 percent of their benefits over, we are not saying that at all. We are saying 20 percent of the benefits are going to be reduced. We are also saying that where that money will go is into reducing the cost of that you and I are going to be looking at terms of increasing costs of people who are not choosing to wear those items. Certainly, it is an issue where a person has a choice whether or not they choose to do that. I am of the opinion that the expectation that we have for people sometimes is just as important as mandating the way that things are going to be. I believe that by doing this, we will not be or perhaps in the cases of the critically ill or damaged, we might be able to do something with an amendment there. I am looking at the fact that we are really not talking about 100 percent of a person's coverage. I got to tell you that I think the insurance companies stand to lose a little bit too if it passes. I think that

part of the issue of them not being able to negotiate any longer, back and forth, the issue of the 20 percent reduction in damages that we created as a standard plays a part in that letter.

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

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask the sponsor, how many insurance companies have agreed to support this legislation?

The SPEAKER: Representative Hickey of Augusta has posed a question through the Chair to the sponsor who may respond if he so desires.

The Chair recognizes the Representative from Buxton, Representative Kimball.

Representative KIMBALL: Mr. Speaker, Ladies and Gentlemen of the House: None of the insurance companies came out either for nor against.

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

A vote of the House was taken.

74 having voted in the affirmative and 24 in the negative, the motion to accept the Majority "Ought Not to Pass" Report did prevail.

#### Consent Calendar

##### First Day

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

(S.P. 486) (L.D. 1314) Bill "An Act to Facilitate Detection of Drivers Operating under the Influence of Intoxicating Liquor or Drugs" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-131)

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

The Bill was passed to be in engrossed as amended in concurrence.

(S.P. 353) (L.D. 961) Bill "An Act to Implement the Recommendations of the Maine Land and Water Resources Council Ground Water Review Policy Committee" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-132)

On motion of Representative Michaud of Medway, was removed from the Consent Calendar, First Day.

The Committee Report was accepted and the Bill read once.

Committee Amendment "A" (S-132) was read by the Clerk.

Representative Michaud of Medway offered House Amendment "A" (H-244) to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-244) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, what this amendment does is set back the date to July 1, 1985. When we originally passed out this unanimous report we thought the town of Bucksport would be included but it appears that it wasn't so this amendment takes care of that problem.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

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

Under suspension of the rules the Bill was read the second time and the Bill passed to be engrossed as amended by Committee Amend-

ment "A" as amended by House Amendment "A" thereto. Sent up for concurrence.

(S.P. 251) (L.D. 646) Bill "An Act Concerning the Standards for Handicapped Restricted-use Elevators" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-128)

(S.P. 152) (L.D. 419) Bill "An Act to Amend the Habitual Offender Law" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-130)

(H.P. 225) (L.D. 259) Bill "An Act to Prohibit the Tampering of Automobile Emission Controls" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-242)

(H.P. 1074) (L.D. 1563) Bill "An Act to Allow the Use of Botanical Pesticides in the Production of Foods Labeled or Advertised as Organic" (Emergency) Committee on Agriculture reporting "Ought to Pass"

(H.P. 884) (L.D. 1241) Bill "An Act Relating to Disposition of State-owned Real Estate" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-243)

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

The Senate Papers were passed to be engrossed as amended in concurrence and the House Papers were passed to be engrossed as amended and sent up for concurrence.

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

#### Non-Concurrent Matter

Bill "An Act to Implement Teacher Recognition Grants and Establish a Minimum Salary for Teachers" (H.P. 1087) (L.D. 1580) which was referred to the Committee on Education in the House on May 24, 1985.

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

On motion of Representative Brown of Gorham, the House voted to recede.

On motion of Representative Diamond of Bangor, tabled unassigned.

#### Non-Concurrent Matter

Bill "An Act to Implement Recognition Grants for Teachers, Establish a Minimum Salary for Teachers and Provide Money for School Administrative Units to Operate Preschool Programs for Handicapped Children" (H.P. 1088) (L.D. 1581) which was referred to the Committee on Education in the House on May 24, 1985.

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

On motion of Representative Brown of Gorham, the House voted to recede.

On motion of Representative Diamond of Bangor, tabled unassigned.

#### Non-Concurrent Matter

Bill "An Act to Implement Teacher Recognition Grants, Establish a Summer Grants Program for Teachers and Establish a Minimum Salary for 1986-87" (H.P. 1089) (L.D. 1582) which was referred to the Committee on Education in the House on May 24, 1985.

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

On motion of Representative Brown of Gorham, the House voted to recede.

On motion of Representative Diamond of Bangor, tabled unassigned.

#### Non-Concurrent Matter

Bill "An Act to Mandate a Course in Cardiopulmonary Resuscitation in High Schools"



(H.P. 257) (L.D. 311) on which the Majority "Ought Not to Pass" Report of the Committee on Education was read and accepted in the House on May 23, 1985.

Came from the Senate with the Minority "Ought to Pass" in New Draft (H.P. 1073) (L.D. 1562) Report of the committee on Education read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-126) in non-concurrence.

Representative Nelson of Portland moved the House recede and concur.

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

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I move this bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair would advise the Representative that the motion to indefinitely postpone is not in order at this time.

The Representative may continue.

Representative BROWN: Mr. speaker, Ladies and Gentlemen of the House: a few days ago we had a mandated breakfast program in the Education Committee. It never could have passed in this body in its original form but I had it reomitted in the spirit of compromise to the Education committee. We all agreed in committee to pass it with an amendment just like this on the CPR. I know now it was a big mistake to start a precedent like we did for the breakfast program. It requires school boards and committees to hold public hearings to see if there is enough need or desire to have a breakfast program. Now that we resoundingly defeated the CPR mandate for schools, what does the other body do but put a similar amendment onto this bill. This is a little too much. When will it all end?

I can remember when it was said that the other body corrected our mistakes; it is now the other way around. The House has to be on their toes all the time to correct the other body. I hope you will vote against the motion to recede and concur.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I thank you for the opportunity to speak on this bill because it is my bill, a bill that a constituent asked me to introduce and which I believed in. The bill introduced didn't need mandate, that part of the health program, in that program which we are already mandating, that you simply add a course to teach CPR to students in high school. The course costs nothing. There is no price. The bill states that you have four years to gear up so there is plenty of time to get it in place. We mandate reading and almost 50 percent of the kids in this state can't read. We mandate math and many of them can't compute. We are teaching here a skill to save a life. I don't know if any of you have ever stood around and watched somebody gasping for breath and dying and felt so ill prepared to help them. I know you will say that everybody has a special project that they want -- well, if they do, what is wrong with that? You have to make that decision.

This program and the amendment, which I introduced, and has been introduced in the other body is said that you should have on the agenda of your school board meetings whether CPR ought to be taught as part of your health education course. If the parents and students don't want it, you don't teach it, that's it. Talk about local control, this is a measure that costs nothing. This is a measure that gives you absolute, total, local control. Men and Women of the House, you have a chance to save lives at a cost to no one. I ask you to go along with the motion to recede and concur.

The issue of this bill that is before us should have nothing at all to do with anything else

that is going on in any other bill. It is unfair, it is cruel to say we will do away with a program to help children with breakfast if you are going to pass this. Deal with this measure as it is, a positive skill, a lifetime skill, that we know will work.

The SPEAKER: The Chair recognizes the Representative from Canton, Representative McCollister.

Representative MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: The gentelady from Portland, Representative Nelson, said that our children can't read or write nor can they do their sums -- is it because we have too many of these programs? I remember hearing the teachers complain about a brush and spit program that they had a few years ago, that cut into the school day. Do we allow another program or do we come back next session and extend the school year to 200 days?

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: This amendment in this context is frivolous. The language used here was originally developed to deal with the breakfast program. On that issue, the Education Committee was not sympathetic to requiring those local towns to determine the need to participate in the breakfast program. However, there was some concern that people in those communities were not aware that their school was considered needy and eligible for federal funding. Therefore, we endorsed that amendment, which required a public hearing at the local level to inform the public of their eligibility and to determine parental interest of a breakfast program.

As far as additions to the curriculum, however, is an established and well known procedure that any citizen may simply request consideration of a curriculum offered, either through a school committee member, the superintendent or at a public meeting. This amendment is totally unnecessary and sets a dangerous precedent on our curriculum issues.

I hope you will vote against the motion to recede and concur.

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

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Whether the amendment is frivolous or whether it makes sense or not, it is the only way that we have a chance of keeping a very important piece of legislation alive in this body today. CPR is a skill that is simple to learn, it takes no textbooks, it takes no pencils, it takes your hands, your lungs and all the things that you have the rest of your life walking around with you. This piece of legislation does not say that you must have this course. It does not say that you have to take this course. The Minority Report from the committee simply states that the program "shall" be offered as part of the health curriculum, the very health curriculum, that this legislature, two years ago, said in 1988, every school would have to have. That is where this program is going to go, not tomorrow, not next September, but in 1988.

Ladies and gentlemen, CPR is a very interesting skill. I want to relate to you a couple of quick stories. One, if you are standing here on the floor of this House and someone next to you goes into cardiac arrest, do you know what to do? I could ask you to put your hands up but I won't embarrass anybody. Let me give you an even worse example -- if you fall down in cardiac arrest, how many of those people next to you know what to do?

A few weekends ago in New Hampshire, a Boy Scout leader from the city or town of Kennebunkport was on a hiking trip. He tripped and fell down a ravine and it put a puncture

wound in his chest. The Boy Scouts fixed that wound, they stopped the bleeding, and he was doing fine. He then went into cardiac arrest. Those boy scouts, because they knew CPR through Boy Scouts, saved that individual's life.

I give you the same story with the field science teacher on that same trail in New Hampshire looking at the rock formations and the trees -- have him fall down the ravine and watch those thirteen, fourteen and fifteen year old high school students sit there and look at him. Based upon what we mandate for education, those students could probably take their geography class and know what kind of ravine it was and where they were, longitude and latitude, but they couldn't do anything for him. They could pull out their pocket calculators and they could compute because we say that they have to have computers -- how long it would take them to go from that point that they are at back to their base camp to get help -- that doesn't save that individual's life. What we are doing is giving those same thirteen and fourteen year old students the opportunity to save a life, something I think we all should do, we all have the ability to do and I would ask you and beseech you to recede and concur.

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

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: I would remind you that the school boards are constituted to respond to these kind of requests in behalf of instruction. To mandate would be to preempt their responsibility. You are urged to reaffirm your previously overwhelming vote to leave such matters to local discretion.

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

A vote of the House was taken.

40 having voted in the affirmative and 66 in the negative, the motion did not prevail.

Representative Brown of Gorham moved that the House adhere.

Representative Nelson of Portland moved that the House insist and ask for a Committee of Conference.

Representative Small of Bath requested a Division.

Representative Nelson 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 Portland, Representative Nelson.

Representative NELSON: Mr. Speaker, Men and Women of the House: Thank you for the opportunity to speak for the last time on this measure, I hope for the last time, maybe not.

I think we are actually a lot closer than most people think I think a lot of you believe that it is important to have a course but perhaps you don't believe in mandating it. Perhaps, through a Committee of Conference, we can work something out to allow for it without mandating it. It is an important skill, it is a life time skill. I ask for your indulgence, I ask that you vote to insist and you have a Committee of Conference. If indeed we can't work it out, you will know it and I will not speak to the issue again.

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

Representative BROWN: Mr. Speaker, Ladies

and Gentlemen of the House: There is no need for this motion at all. It already is allowed in the schools if they want it.

The SPEAKER: The pending question before the House is the motion of the Representative from Portland, Representative Nelson, that the House insist and ask for a Committee of Conference. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 104

YEAS:—Aliberti, Baker, H.R.; Beaulieu, Boutilier, Brodeur, Carroll, Chonko, Clark, Connolly, Cooper, Cote, Crowley, Daggett, Descoteaux, Diamond, Dillenback, Drinkwater, Gwadosky, Handy, Hayden, Hickey, Hoglund, Jacques, Jalbert, Joseph, Lacroix, Lisnik, Manning, Martin, H.C.; Matthews, Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Mills, Mitchell, Murphy, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Paul, Priest, Racine, Reeves, Richard, Rioux, Rydell, Simpson, Tammara, Tardy, Telow, Theriault, Vose, Walker, Warren.

NAYS:—Allen, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Brown, A.K.; Callahan, Carter, Coles, Connors, Crouse, Davis, Dellert, Duffy, Erwin, Farnum, Foss, Foster, Greenlaw, Hale, Harper, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Kimball, Lawrence, Lebowitz, Lord, MacBride, Macomber, Masterman, McPherson, Michaud, Moholland, Murphy, E.M.; Nicholson, Nickerson, Paradis, E.J.; Parent, Perry, Pines, Randall, Rice, Roberts, Rolde, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevenson, Swazey, Taylor, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton.

ABSENT:—Bost, Brannigan, Brown, D.N.; Cahill, Carrier, Cashman, Dexter, Hepburn, Higgins, H.C.; Jackson, Kane, Lander, Law, Murphy, T.W.; Pouliot, Ridley, Ruhlin, Stevens, P.; Strout, The Speaker.

60 having voted in the affirmative and 71 in the negative with 20 being absent, the motion did not prevail.

Whereupon, the House voted to adhere.

#### Non-Concurrent Matter

An Act Relating to the Affixing of Indicia of Payment of Real Estate Transfer Tax (H.P. 764) (L.D. 1084) which was passed to be Enacted in the House on May 17, 1985.

Came from the Senate Indefinitely Postponed in non-concurrence.

On motion of Representative Jalbert of Lisbon, the House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act to Establish a Kennebec County Budget Committee" (H.P. 300 (L.D. 389) which was passed to be Engrossed as amended by Committee Amendment "A" (H-155) in the House on May 23, 1985.

Came from the Senate Failing of passage to be Engrossed in non-concurrence.

On motion of Representative Davis of Monmouth, tabled pending further consideration and tomorrow assigned.

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

#### Reports of Committees

##### Unanimous Ought Not to Pass

Representative HIGGINS from the Committee on Taxation on Bill "An Act to Increase the Agent's Fee for Collection of Excise Tax in Unorganized Places" (H.P. 218) (L.D. 252) reporting "Ought Not to Pass"

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

##### Unanimous Leave to Withdraw

Representative HIGGINS from the Committee on Taxation on RESOLUTION, Proposing an

Amendment to the Constitution of Maine to Authorize the Expenditure of Highway Fund Money for Public Transportation that is Dependent upon Highways and Bridges for Operation (H.P. 627) (L.D. 913) reporting "Leave to Withdraw"

Representative WARREN from the Committee on Legal Affairs on Bill "An Act to Strengthen the Laws Relating to Operating Under the Influence" (H.P. 75) (L.D. 100) reporting "Leave to Withdraw"

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

#### Consent Calendar

##### First Day

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

(H.P. 582) (L.D. 852) Bill "An Act to Authorize an Elderly Housing Project at Pineland Center" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-245)

(H.P. 578) (L.D. 849) Bill "An Act to Revise the Maine Certificate of Need Act for Hospitals" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-246)

(H.P. 1045) (L.D. 1523) Bill "An Act to Create the Bureau of Children with Special Needs in the Department of Mental Health and Mental Retardation" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-247)

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

The above items were passed to be engrossed or passed to be engrossed as amended and sent up for concurrence.

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

##### Passed to Be Engrossed

##### As Amended

##### Tabled and Assigned

Bill "An Act to Increase Fees for Licenses Issued by the Department of Marine Resources" (H.P. 761) (L.D. 1081) (C. "A" H-237)

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

On motion of Representative Scarpino of St. George, tabled pending passage to be engrossed and tomorrow assigned.

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

##### Passed to Be Engrossed

Bill "An Act Concerning the Bureau of Public Lands" (S.P. 616) (L.D. 1627)

Was reported by the Committee on Bills in the Second Reading and read a second time, passed to be engrossed in concurrence.

##### Tabled and Assigned

Bill "An Act to Authorize Arrostook County to Raise \$2,100,000 for Renovations and Additions to the Arrostook County Jail" (S.P. 617) (L.D. 1628)

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

On motion of Representative McHenry of Madawaska, tabled pending passage to be engrossed and tomorrow assigned.

##### As Amended

Bill "An Act to Protect Applicants for Admission to Nursing Homes from Unfair and Illegal Trade Practices" (S.P. 229) (L.D. 591) (S. "A" S-143 to C. "A" S-133)

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

#### Orders of the Day

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

Bill "An Act Relating to the Maine-New Hampshire Interstate Bridge Authority Portsmouth-Kittery Bridge and Approaches Thereto" (S.P. 601) (L.D. 1577)

- In Senate, Passed to be Engrossed without reference to a Committee.

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

TABLED—May 28, 1985 by Representative THERIAULT of Fort Kent.

PENDING—Reference

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

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

Bill "An Act to Require Adequate Notice of Tax Lien Foreclosure" (H.P. 1090) (L.D. 1583)

TABLED—May 28, 1985 by Representative CASHMAN of Old Town.

PENDING—Passage to be Engrossed.

On motion of Representative Diamond of Bangor, retabled pending passage to be engrossed and tomorrow assigned.

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

Bill "An Act Relating to Retirement Options for Legislators" (H.P. 703) (L.D. 1013) (C. "A" H-154)

TABLED—May 28, 1985 by Representative DIAMOND of Bangor.

PENDING—Passage to be Engrossed.

On motion of Representative Diamond of Bangor, retabled pending passage to be engrossed and tomorrow assigned.

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

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-204) - Committee on Legal Affairs on Bill "An Act Relating to Forcible Entry and Detainer Actions" (H.P. 409) (L.D. 562)

TABLED—May 28, 1985 by Representative REEVES of Pittston.

PENDING—Acceptance of Either Report.

On motion of Representative Reeves of Pittston, retabled pending acceptance of either report and tomorrow assigned.

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

RESOLVE, Establishing the Maine Commission on the Role of State Government in Providing Independent Living Opportunities and Services to Disabled Persons in Maine (S.P. 355) (L.D. 963)

TABLED—May 28, 1985 by Representative DIAMOND of Bangor.

PENDING—Adoption of Committee Amendment "A" (S-110)

Representative Nelson of Portland offered House Amendment "A" (H-232) to Committee Amendment "A" and moved its adoption.

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

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

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

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

Bill "An Act Concerning Absentee Voting at Designated Places" (H.P. 1105) (L.D. 1594)

TABLED—May 28, 1985 by Representative DIAMOND of Bangor.

**PENDING**—Motion of Representative McCOLLISTER of Canton to Indefinitely Postpone bill and Accompanying Papers.

On motion of Representative Diamond of Bangor, retabled pending the motion of Representative McCollister of Canton that the House Indefinitely postpone bill and all accompanying papers and tomorrow assigned.

The Chair laid before the House the following matter: Majority Report of the Committee on State Government reporting "Ought Not to Pass" on RESOLVE, to Establish a Study Commission on Government Competition with Private Enterprise (H.P. 996) (L.D. 1433) and Minority Report of the same committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-220) which was tabled earlier in the day and later today assigned pending acceptance of either report.

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

Representative SPROUL: Mr. Speaker, Men and Women of the House: Unfortunately the sponsor of this bill was unable to be here for this afternoon session and I would appreciate it if someone would table this one for one legislative day.

On motion of Representative Davis of Monmouth, table pending acceptance of either report and tomorrow assigned.

The Chair laid before the House the following matter: Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-225) on Bill "An Act Concerning Handicapped Motor Vehicle Registration Plates or Placards" (H.P. 778) (L.D. 1099) and Minority Report 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".

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to offer House Amendment "A" (H-240) to Committee Amendment "A" and move its adoption.

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

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: What this amendment does is that it restores some of the original language that was in the bill that was eliminated by Committee Amendment "A" and I would like to give you a little bit of background as the sponsor of the original bill.

What has been happening on the issuance of handicapped plates is that these plates were authorized in the year 1975 to be issued to those that have a permanent disability. Handicapped plates have been issued to persons who have received a physicians certificate for a disability, which was defined as one who is permanently confined to a wheelchair or restricted to permanent use of crutches or braces or otherwise handicapped in such a way that their mobility is seriously restricted. Now, when these plates were originally issued in 1975, this has been a period of over 10 years, and as a result of it, the plates that were issued to those individuals have either died or have been placed in nursing homes and these plates do not have to have the physical disability on the annual renewal certified by a physician so, consequently, those plates are being used by members of the family. This has caused a lot of concern by those that are truly handicapped when they see individuals riding around and using the limited number of spaces that have been designated for the handicapped people.

There are only a few spaces out there. Since so many people use these and they are truly not handicapped in the sense that those plates were not issued to them so what my bill did originally was to require an annual recertification for those that have been issued handicap plates.

I realized when I presented the bill to the committee that this might be an imposition on those people that are in wheelchairs or wear braces and are truly handicapped and I recommended that possibly instead of requiring an annual recertification that we could probably do this on a three or five year basis. For some reason, the committee struck out the annual recertification completely in part two of my bill. So, what the amendment does is it requires that those persons that have been issued handicap plates that they resubmit a physician's certificate every three years. I don't think that this is such an imposition because if you are handicapped, you normally go back to your doctor to ensure that your disease or your physical condition does not deteriorate. I believe that some members of the committee felt that that by requiring persons to recertify through a physician's certificate would cause and create a financial hardship. My main concern was and still is to remove those plates that have been issued to those individuals that are no longer with us and there are quite a few out there. As a matter of fact, based on some figures that I was able to obtain from the Motor Vehicle Division, there are 5,562 plates that have been issued that are currently in use by handicapped people as well as 3,000 placards for a total of 8,500 permits that have been issued. When I started to look into this, I realized that we had a lot of problems in this particular area and this is why I submitted my bill.

What my bill does is that it establishes a requirement that those individuals have a doctor's certificate to recertify every three years and I don't think that this is a financial burden. I think that this will help clean up the problems that we have with handicap parking.

I hope that you will support my bill.

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Theriault.

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

Mr. Speaker, Ladies and Gentlemen of the House: Granted there is a problem out there with the abuse of handicapped plates but I don't think that it is proper for us to solve this problem by creating another one for our people that would have to pay something in the vicinity of maybe \$40.00 or \$50.00 for a physical to get a new doctor's certificate to present to the Secretary of State. This was one of the reasons why the committee turned down the original bill.

I am sure that a spot check by a police officer can accomplish what this amendment is trying to do and probably will not cost us anything to accomplish it so I wish that you would vote to indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not support the motion to indefinitely postpone because we do have a problem out there. We have a tremendous problem. When I presented the bill, the Secretary of State's Office indicated that we do have a problem, that we do have to come up with something to try to clean up the fact that these licenses have not been revalidated for the last 10 years and there are a lot of licenses out there. Insofar as having to spend \$50 for a physical exam, I don't believe that this is quite accurate.

I have a plastic hip for those of you who don't know and I have to visit my physician once a

year and my fee is \$25 and if I had a handicap plate, at the time of my visit, I would ask the doctor to recertify the fact that I was disabled and that I needed a handicap license plate so I don't think that that is a big issue.

I think we have a problem out there and I think that we should do something about it.

What the bill does, basically, in the amendment from the committee, it does nothing, absolutely nothing. The Committee Amendment amends Section I of the bill, which is 1099, and then what it does is require that the name of the handicapped person and the date of expiration of the placard be listed on the placard. These placards are all permanent. The 3,000 placards that were issued, according to the Motor Vehicle Division, only a few of those are temporary so they are all permanent. So, this bill does absolutely nothing, nothing at all.

I hope that you will vote against the pending motion and Mr. Speaker, I request a roll call on this.

The SPEAKER: A roll call has been requested.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will go along with the motion of the gentleman from Fort Kent, Representative Theriault. We spent quite a lot of time on this particular bill. We realize that there is a problem but, down the road, we looked at some of the other effects of the problem. If, for instance, somebody had lost both legs or a leg in an automobile accident or anything else, if he was confined to a wheelchair for the rest of his life, something that his permanent and is never going to change, this man still has to go back to the doctor every three years, have the doctor tell he is disabled and I really think that that is unnecessary.

I hope you will go along with the motion to indefinitely postpone.

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

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: One of the reasons that I am the lone eagle on this bill is on account of the medical part. I wish you would go along with the motion to indefinitely postpone this amendment.

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 Fort Kent, Representative Theriault, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 105

YEAS:—Allen, Baker, H.R.; Beaulieu, Bell, Bonney, Bott, Boutillier, Brodeur, Brown, A.K.; Callahan, Carroll, Chonko, Clark, Coles, Cooper, Crouse, Crowley, Daggett, Davis, Dellert, Diamond, Dillenback, Drinkwater, Duffy, Erwin, Foss, Foster, Greenlaw, Harper, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jalbert, Kimball, Lacroix, Lawrence, Lebowitz, Lisnik, Macomber, Manning, Martin, H.C.; Masterman, Mayo, McGowan, McHenry, McPherson, Melen, Michael, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, O'Gara, Paradis, P.E.; Pines, Priest, Randall, Reeves, Rice, Rolde, Rotondi, Rydell, Salisbury, Sherburne, Simpson, Small, Smith, C.B.; Smith, C.W.; Soucy, Stevens, A.G.; Steven-

son, Tammaro, Taylor, Telow, Theriault, Warren, Webster, Zirkilton.

**NAYS:**—Aliberti, Armstrong, Baker, A.L.; Begley, Bragg, Connors, Connolly, Cote, Descoteaux, Farnum, Hale, Handy, Hichborn, Jacques, Joseph, Lord, MacBride, Matthews, McCollister, McSweeney, Murphy, E.M.; Nickerson, Paradis, E.J.; Parent, Paul, Perry, Racine, Richard, Rioux, Roberts, Scarpino, Seavey, Sproul, Stetson, Swazey, Tardy, Walker, Wentworth, Weymouth, Whitcomb, Willey.

**ABSENT:**—Bost, Brannigan, Brown, D.N.; Cahill, Carrier, Carer, Cashman, Dexter, Gwadosky, Hepburn, Jackson, Kane, Lander, Law, Michaud, Murphy, T.W.; Pouliot, Ridley, Ruhlin, Stevens, P.; Strout, Vose, The Speaker.

87 having voted in the affirmative and 41 in the negative with 23 being absent, the motion did prevail.

Whereupon, committee Amendment "A" was adopted.

The **SPEAKER:** The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative **RACINE:** Mr. Speaker, Ladies and Gentlemen of the house: since I lost on my motion which would have put some meat into this bill, as I stated previously, the committee amendment does absolutely nothing so there is no sense in cluttering up the laws and as a sponsor of this bill, I move that we indefinitely postpone the bill and all its accompanying papers.

The **SPEAKER:** The Chair recognizes the Representative from Fort Kent, Representative Theriault.

Representative **THERIAULT:** Mr. Speaker, Ladies and Gentlemen of the House: If this bill does nothing — I will read to you what I think it does — it says: "the Secretary of State shall establish by regulation a system of color coding for placards issued pursuant to this section for the purpose of facilitating the determination of the validity of plates and placards."

The **SPEAKER:** The Chair will order a vote. The pending question before the House is the motion of the Representative from Biddeford, Representative Racine, that L.D. 1099 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

50 having voted in the affirmative and 68 in the negative, the motion did not prevail.

Whereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

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

#### **Papers from the Senate**

Bill "An Act Concerning Child Abuse" (S.P. 621)

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

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act to Establish Confidential Communications Between Certified Public Accountants and their Clients Concerning Tax Matters" (S.P. 620)

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

On motion of Representative Mayo of Thomaston, referred to the Committee on Taxation in non-concurrence and sent up for concurrence.

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

#### **Paper from the Senate**

The following Joint Order: (S.P. 622)  
**ORDERED,** the House concurring, that the Joint Standing Committee on Education be

directed to report out a bill to the Senate relating to the Administration of Vocational Education.

Came from the Senate, read and passed.

Was read.

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

Representative **GWADOSKY:** Mr. Speaker, Ladies and Gentlemen of the House: In regards to this Order, I am at odds to where to proceed at this point in time. Our committee has been working on a bill presented by Representative Crowley dealing with administration of Vocational-Technical Institutes for six or seven weeks now. This Joint Order is sponsored by a Senator in the other body, who has been an opponent to our goals from the first day of the session so I am a little curious and wonder if some member of the Education Committee could explain what this bill would be that would be coming out of the Education Committee and why they haven't gone through legislative council for an after deadline bill?

The **SPEAKER:** The Representative from Fairfield, Representative Gwadosky, has posed a question through the Chair to any member of the Education Committee who may respond if they so desire.

The Chair recognizes the Representative from Gorham, Representative Brown.

Representative **BROWN:** Mr. Speaker, Ladies and Gentlemen of the House: It has become a pattern as our committee worked on education matters this session that there was a clear need for revision in our education laws to deal with problems facing our vocational-technical institutes. Funding needs has always been a problem. We need more visibility for the VTI's within the Department of Education. Our committee has been working on a bill to address those concerns, which we would like to bring to the floor for your consideration.

This Joint Order will enable us to give the House two alternatives for addressing these problems. It does not require you to support our bill, only give us a chance to offer our proposal. It does not set up a separate department like the bill that is coming out of the State Government Committee. At the time that bill was put before the House, we wanted it in Education Committee but we didn't get it, it went to State Government. We believe that it should have gone to Education. We can't amend the bill coming from the State Government Committee because it may not be germane so we feel that we need a separate bill so you can have a choice.

Representative Nadeau of Saco moved that the Order be tabled for one legislative day.

Representative Brown of Gorham 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 Saco, Representative Nadeau, that the Order be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

#### **ROLL CALL No. 106**

**YEAS:**—Aliberti, Allen, Armstrong, Baker, H.R.; Bonney, Boutilier, Brodeur, Carroll, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crowley, Daggett, Descoteaux, Diamond, Dillenback, Duffy, Erwin, Farnum, Greenlaw, Gwadosky, Hale, Hayden, Hichborn, Hickey, Higgins, H.C.; Hoglund, Jacques, Lacroix, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Martin, H.C.; Mayo, McCollister,

McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, Murphy, E.M.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Parent, Paul, Perry, Priest, Racine, Reeves, Richard, Rioux, Roberts, Rolde, Rotondi, Rydell, Salisbury, Simpson, Sproul, Swazey, Tammaro, Tardy, Telow, Theriault, Warren, Wentworth, Whitcomb.

**NAYS:**—Baker, A.L.; Beaulieu, Begley, Bell, Bott, Bragg, Brown, A.K.; Callahan, Crouse, Davis, Dellert, Drinkwater, Foss, Foster, Handy, Harper, Higgins, L.M.; Hillock, Holloway, Ingraham, Jalbert, Joseph, Kimball, Lawrence, Masterman, Matthews, McPherson, Moholland, Nicholson, Nickerson, Paradis, E.J.; Pines, Randall, Rice, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Stetson, Stevens, A.G.; Stevenson, Taylor, Vose, Walker, Webster, Weymouth, Willey, Zirkilton.

**ABSENT:**—Bost, Brannigan, Brown, D.N.; Cahill, Carrier, Carter, Cashman, Connors, Dexter, Hepburn, Jackson, Kane, Lander, Law, Murphy, T.W.; Pouliot, Ridley, Ruhlin, Stevens, P.; Strout, The Speaker.

79 having voted in the affirmative and 51 in the negative with 21 being absent, the motion did prevail.

Representative **HANDY:** Mr. Speaker, Ladies and Gentlemen of the House: My comments today are in reference to L.D. 683 which the sponsors accepted the courtesy of this body to accept "Leave to Withdraw" report. The bill is entitled "An Act to Require the Listing of Courses Within the University of Maine system Colleges that are Transferable to Other Campuses." The sponsors and cosponsors of this legislation agreed with that committee report pending the acceptance of the letter confirming administrative resolution to the problem, at least what we believe is a step toward that resolution.

I would like to read that letter from the Vice chancellor of Academic Affairs into the record. "From the Office of Chancellor, dated May 22, 1985 to the Chairpersons of the Joint Standing Committee on Education, State House, Room 134, Augusta. Dear Senator L. Brown and Rep. A. Brown: This is to confirm our telephone conversation of today regarding L.D. 683. I concur with your recommendations that the statement in your letter be placed in the University of Publications that describe course offerings. The campuses at the University of Maine generally follow a two year printing schedule for their course catalogues. For such a printing has occurred, I am requesting the Chief Academic Officers to include an insert of the enclosed statement. Sincerely, Harlan A. Phillopy, Vice-Chairman of Academic Affairs."

The insert reads: "Notice, trustee policy is to provide the maximum opportunity for transfer within the system. When a student is accepted for transfer within the University of Maine, all under-graduate degree obtained at any unit of the university will be transferable to any other unit but not automatically be applied to specific academic degree programs to which the student is transferred. Each student will be expected to meet the established requirements of the academic program into which transfer is affected and appropriate application of that credit is to be the responsibility of the particular academic unit. To determine which courses are transferable for a degree program credit, students who anticipate the need to transfer course credits should consult with their academic advisor prior to enrollment."

(Off Record Remarks)

On motion of Representative Baker of Portland,  
Adjourned until nine o'clock tomorrow morning.