

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

INDEX

FIRST CONFIRMATION SESSION

August 29, 1985

INDEX

SECOND CONFIRMATION SESSION

October 11, 1985

INDEX

FIRST SPECIAL SESSION

November 13, 1985

INDEX

HOUSE

Monday, June 10, 1985

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

Prayer by Reverend Robert E. Stuart, Winter Street Baptist Church, Gardiner.

Pledge of Allegiance.

Quorum called; was held.

The Journal of Friday, June 7, 1985 was read and approved.

Papers from the Senate**Unanimous Leave to Withdraw**

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Require Deeds to Contain Mailing Addresses of Grantees" (S.P. 206) (L.D. 554)

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

Divided Report

Majority Report of the Committee on Utilities reporting "Ought Not to Pass" on Bill "An Act to Require Public Utilities Commission Approval of Significant Agreements and Contracts by Public Utilities" (S.P. 436) (L.D. 1203)

Signed:

Senators:

BALDACCI of Penobscot

WEBSTER of Franklin

Representative:

VOSE of Eastport

NICHOLSON of South Portland

RICHARD of Madison

WILEY of Hampden

CLARK of Millinocket

PARADIS of Old Town

WEYMOUTH of West Gardiner

WESTER of Cape Elizabeth

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-212) on same Bill.

Signed:

Senator:

ANDREWS of Cumberland

Representatives:

BAKER of Portland

McHENRY of Madawaska

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

On motion of Representative Vose of Eastport, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Non-Concurrent Matter**Later Today Assigned**

Bill "An Act to Include the Term 'Sexual Orientation' in the Maine Human Rights Act" (S.P. 446) (L.D. 1249) on which the Bill and accompanying papers were indefinitely postponed in the House on June 7, 1985.

Came from the Senate with that Body having insisted on its former action whereby the Minority "Ought to Pass" as amended Report of the Committee on Judiciary was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-221) and asked for a Committee of Conference in non-concurrence.

Representative Paradis of Augusta moved that the House insist and ask for a Committee of Conference.

The same Representative moved that this be tabled until later in today's session.

Representative Carrier of Westbrook requested a Division.

Representative Connolly of Portland 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 Representative Paradis of Augusta that L.D. 1249 be tabled until later in today's session. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 158

YEAS:—Allen, Baker, H.R.; Beaulieu, Bost, Boutilier, Brannigan, Brodeur, Carroll, Chonko, Coles, Connolly, Cooper, Cote, Crowley, Descoteaux, Diamond, Erwin, Gwadosky, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Joseph, Kimball, Lacroix, Lawrence, Lebowitz, Lisnik, MacBride, Manning, Mayo, McCollister, McGowan, Melendy, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Paul, Priest, Reeves, Richard, Rolde, Ruhlman, Rydell, Simpson, Stevens, P.; Tardy, Taylor, Theriault, Vose, Walker, Warren

NAYS:—Aliberti, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carter, Clark, Connors, Daggett, Davis, Dellert, Dexter, Dillenback, Drinkwater, Farnum, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Hillock, Ingraham, Jackson, Jacques, Jalbert, Lander, Law, Lord, Macomber, Martin, H.C.; Masterman, Matthews, McHenry, McPherson, McSweeney, Michaud, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Paradis, E.J.; Parent, Perry, Pines, Rice, Ridley, Rioux, Roberts, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Tammara, Telow, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilston

ABSENT:—Cashman, Crouse, Duffy, Higgins, L.M.; Holloway, Kane, Michael, Pouliot, Racine, Randall, The Speaker

60 having voted in the affirmative and 80 in the negative with 11 being absent, the motion did not prevail.

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

Representative CARRIER: Mr. Speaker, Members of the House: I suggest that you vote against that motion.

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

Representative CONNOLLY: Mr. Speaker, Members of the House: We had a fairly extensive and best debate last Friday in all the years that this issue has been before the legislature so it is not my intention to dwell on the issue. I would just hope that this body might vote today with Representative Paradis to allow this bill to go to a Committee of Conference.

It is obvious that the legislation, both in the form in which it was presented in past years and also when the amended version that came out of the Judiciary Committee this year, still doesn't quite have the support that it needs to be enacted but I think everybody, at least everybody who listened to the debate that occurred last Friday, would agree that there is a problem, a serious problem, of discrimination. While attending the state's human rights act may not be the vehicle at this point that we would use to deal with that problem, it seems to me that there must be some things that might be possible to try to deal with the problem of discrimination against homosexuals.

Last Friday, after we defeated the bill, the other body insisted and asked for a Committee of Conference. The idea is if we can get the bill into a Committee of Conference, perhaps there is something that would be acceptable to both sides. The idea being kicked around is at this point would be if there was an acceptable amendment from the committee of Conference that a special commission would be appointed to determine, not only the problem,

but the extent of the problem, and to report back to the legislature next January with specific proposals that would be reasonable and acceptable to this body. It would seem to me that given the serious nature of the problem that it would be premature for us to kill the bill at this point — at least, and I plead with you, allow the bill to get into a Committee of Conference. If they come out with a recommendation or proposal that can't get our support, then we would have the opportunity at that point, particularly the opponents to vote that down but I would ask you to please vote for the motion to join in a Committee of Conference so that we can see if there isn't something that might be possible to deal with the issue.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I won't attempt to repeat what Representative Connolly has said. Obviously, I agree with what he has said and I would just simply say to all of you in this House, the comments that were made to me following the testimony last Friday, with all the sincerity that I can muster in this body, in my body, and to you, I ask you to please to support this motion.

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

A vote of the House was taken.

52 having voted in the affirmative and 85 in the negative, the motion did not prevail.

Representative Allen of Washington moved that the House adhere.

Representative Connolly of Portland moved that the House recede.

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

Representative CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: The reason that I made that motion is, not only to keep the bill alive, but it would allow me the opportunity to draft an amendment so rather than go into a Committee of Conference, we could have the amendment on the floor before us and vote that up or down. I would appreciate it if some member of this body would table this until later so I could have the opportunity to have the amendment prepared.

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

Representative McHENRY: Mr. Speaker, a parliamentary question? If the motion to insist and ask for a Committee of Conference, which was defeated, has not the motion to recede been defeated also?

The SPEAKER: The Chair would advise the Representative that the motion to recede is the highest motion before the body and can be made at this time.

Representative Paradis of Augusta moved that this bill be tabled until later in the day's session.

Representative Carrier of Westbrook requested a Division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Augusta, Representative Paradis, that this matter be tabled until later in today's session. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

51 having voted in the affirmative and 85 in the negative, the motion did not prevail.

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

Representative CONNOLLY: Mr. Speaker,

Members of the House: I guess we don't have any moves left to us at this point to try to keep the issue alive unless by some chance those last two or three votes get turned around and you do accept the motion to recede and then we would still have an opportunity to present the amendment.

I just want to say to everybody here that I have been involved with this legislation since the time it was first introduced by Jerry Talbot back during the 108th Legislature. It is an issue that, while we are not going to be able to come to some conclusion on it this year, it will be back before us every session that this legislature sits until, at some point, we have the political courage to deal with discrimination. Anybody who knows, either from the testimony that has been presented in the legislature or from your own personal experience, friends and people that you know, has to realize that there is very real discrimination that occurs and results sometimes in violence such as the death of the fellow in Bangor last year because of these screwed up attitudes that we have in our heads about people who are gay. I think, because of the oath of office that we take down here, we have a responsibility at some point to do something about it. Time after time, when we vote on this issue, I hear people say to me, in my heart, I believe that what you are trying to do is right, but it won't sell well with my folks back home and I just think that that is a mistake and, at some point, some legislature, will go down in history for having supported an amendment to the human rights act because it is the right thing to do.

I would request a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Portland, Representative Connolly, that the House recede from indefinite postponement. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 163

YEAS:—Baker, H.R.; Beaulieu, Boutillier, Brannigan, Brodeur, Carroll, Chonko, Coles, Connolly, Cooper, Cote, Descoteaux, Diamond, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Joseph, Lacroix, Manning, Melendy, Mills, Mitchell, Murray, Nadeau, G.G.; Nelson, O'Gara, Paradis, P.E.; Priest, Reeves, Rioux, Rolde, Ruhlin, Rydell, Simpson, Stevens, P.; Warren

NAYS:—Aliberti, Allen, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bost, Bott, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carter, Clark, Connors, Crowley, Daggett, Davis, Dellert, Dexter, Dillenback, Drinkwater, Erwin, Farnum, Foss, Greenlaw, Gwadosky, Hale, Harper, Hepburn, Hichborn, Hillock, Holloway, Ingraham, Jackson, Jacques, Jalbert, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Martin, H.C.; Masterman, Matthews, Mayo, McCollister, McGowan, McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Nadeau, G.R.; Nicholson, Nickerson, Paradis, E.J.; Parent, Paul, Perry, Pines, Rice, Richard, Ridley, Roberts, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Tamaro, Tardy, Taylor, Telow, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilston

ABSENT:—Cashman, Crouse, Duffy, Higgins, L.M.; Kane, Michael, Pouliot, Racine, Randall,

The Speaker

38 having voted in the affirmative and 103 in the negative with 10 being absent, the motion to recede from indefinite postponement did not prevail.

Subsequently, the House voted to adhere.

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

Representative CARRIER: Mr. Speaker, having voted on the prevailing side, I now move that the House reconsider its action whereby the House voted to adhere.

The SPEAKER: Representative Carrier of Westbrook, having voted on the prevailing side now moves that the House reconsider its action whereby the House voted to adhere. Those in favor will vote yes; those opposed will vote no.

A viva voce vote being taken, the motion did not prevail.

Messages and Documents

The following Communication:

State of Maine

One Hundred and Twelfth Legislature

Committee on Labor

June 7, 1985

The Honorable John L. Martin

Speaker of the House

112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Labor during the first regular session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	59
Unanimous reports	55
Leave to Withdraw	18
Ought to Pass	2
Ought Not to Pass	21
Ought to Pass as Amended	9
Ought to Pass in New Draft	5
Divided reports	1
Carry Over Bills	
(Approved by the Legislative Council)	3

Respectfully submitted,
S/ DENNIS L. DUTREMBLE
Senate Chair

S/ EDITH S. BEAULIEU
House Chair

Was read and ordered placed on file.

Reports of Committees

Unanimous Leave to Withdraw

Representative McGOWAN from the Committee on Appropriations and Financial Affairs on RESOLVE, Appropriating Funds for the Chester Dental Clinic" (H.P. 553) (L.D. 825) reporting "Leave to Withdraw"

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

Consent Calendar

First Day

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

(H.P. 773) (L.D. 1094) Bill "An Act to Regulate Membership Camping" Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (H-356)

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.

Passed to Be Engrossed

Later Today Assigned

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

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

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

As Amended

Later Today Assigned

Bill "An Act to Amend the Code of Fair Practices and Affirmative Action as the Equal Opportunity Standard for State Financed Agencies" (S.P. 166) (L.D. 453) (C. "A" S-222)

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

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

Representative BELL: Mr. Speaker, a question through the Chair. Could someone explain what Committee Amendment "A" does to the bill?

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

The Chair would request if anyone is here from the Judiciary Committee who was present when this bill was heard or knows anything about the Committee Amendment, if they would kindly respond to the question posed by the Representative from Paris, Representative Bell. We are talking about Bill "An Act to Amend the Code of Fair Practices and Affirmative Action as the Equal Opportunity Standard for State Financed Agencies. We are talking about Committee Amendment "A" (S-222).

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

Orders of the Day

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

SENATE DIVIDED REPORT—Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-214)—Minority (5) "Ought to Pass" as amended by Committee Amendment "B" (S-215)—Committee on Appropriations and Financial Affairs on Bill "An Act to Implement the Recommendations of the State Compensation Commission" (Emergency) (S.P. 91) (L.D. 289)

—In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-214)

TABLED—June 7, 1985, by Representative CARTER of Winslow.

PENDING—Motion of same Representative to accept the Majority "Ought to Pass" as Amended Report.

On motion of Representative Carter of Winslow, the Bill was indefinitely postponed in non-concurrence sent up for concurrence.

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

Bill "An Act Concerning Coverage of Certain Trials by the Electronic Media" (H.P. 820) (L.D. 1161) (C. "A" H-275)

—In House, Indefinitely Postponed on June 5, 1985.

—In Senate, Passed to be Enacted in non-concurrence.

TABLED—June 7, 1985 by Representative HAYDEN of Durham.

PENDING—Motion of Representative PARADIS of Augusta to Recede and Concur

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

Representative CARRIER: Mr. Speaker, Members of the House: This is a bad bill that we voted down last week, that we indefinitely postponed and I would suggest to you that you vote against the motion to recede and concur so we can adhere and kill the bill.

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

Representative PARADIS: Mr. Speaker, Men

and Women of the House: I hope that we will recede and concur this morning. If you heard the debate on the bill last week, it would seem very simply that it allows the Supreme Judicial Court of Maine to establish rules governing the procedures by which electronic media would be premitted. I think the question that was brought up is of fairness to defendants in court. I think the way a judge rules, if I may use that word, his courtroom, he always has in his concern the fairness of the proceeding. I think this bill allows enough latitude, with all of the latitude going to the judge to use his discretion, that I don't think that we have to worry about any problems arising. The fact that it is already being done in the law court under very tight restrictions leads me to believe that those same restrictions would be used in the superior court and then in the district court.

Another question of fairness too, the defendants themselves. I think it is far better to see a person under oath on a stand than to see that person covering their face walking out of a courtroom with four cameras being shoved at them and asked the question, did you do this or are you guilty? The system is enhanced and the credibility of our court system is enhanced when you have a person under oath there in a formal, with all the constitutional rights that person has, being protected. The right to self incrimination and so on and so forth in our constitution, those sacred rights that we hold, I think that is far better than to have a person handcuffed coming out of jail with two sheriff deputies being led to the cruiser and led away.

I would feel much more comfortable if I were being accused of something to be under oath telling my story and having it held up to cross examination than to be handcuffed and being taken from a car looking down and this type of thing. We can come into the 20th Century in Maine by voting for this bill. I would ask that you do recede and concur.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: After taking the vote last week, you sit and reflect about it and have maybe small doubts that come into your mind whether or not you voted right. It happens to me every time we take an important vote. That happened last week.

But when I was in the motel room and it showed the TV progress of the Von Bulow trial in Providence, after the judge had charged the jury, and as the jury was walking out, what came on the TV screen was a toll free number asking millions of people in the United States to send in their verdict. If that is not an example of asking three million people who are not privy to most of the trial, who did not view the scene, who may have seen part of it and may not have seen part of it, that is exactly what happened. You will have three or four or five or ten million people give a verdict. I am not going to pass judgment on the decision that the jury is going to make on Von Bulow but what I am saying is, regardless of the verdict of the jury, he will have been judged by his peers and he will have been judged by three or probably ten or forty or fifty million people. That is what he will have to live on.

I would ask that you vote not to recede and concur.

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

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the fact that the Von Bulow trial is a sensational trial. I do not believe that in the State of Maine we have that type of sensationalism. I also think that our media has more prudence that to try to create a circus atmosphere in our courtrooms. I think we also

should remember that the court will control whatever happens in their presence. Our court has a history of jurisprudence that is to be admired. I don't believe that this bill would do anything to make any difference in that state.

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: We have heard this talk about the court can control. The court cannot control what the gentleman from Lisbon talked about, cannot control what the media decide to put on the tube after the trial is over or even during the trial. The court cannot control what is shown to the public.

When we speak of the court having control, it doesn't take an act of this legislature to enable the court to permit cameras in the courtroom. If the court wants cameras in the trial courts, the court can by rule enable the cameras to come in to the trial courts. I think that our Supreme Judicial Court is exercising very sound discretion in saying that we do not feel that it is necessary to open our trial courts in the State of Maine to this kind of publicity, to this kind of exhibitionism. That is all it amounts to.

If we talk about the Von Bulow case being a sensational trial, what do you think the media is going to look for in the State of Maine? They are going to look for just about the same kind of trial.

One last point. We hear about people being handcuffed. Well, people in civil actions are not handcuffed. People in civil actions have rights too. They have the right not to be made a spectacle of on the TV tube.

I urge you to vote against the motion to recede and concur.

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

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: I voted in favor of this bill after some thought and I voted in favor of it for two basic reasons. First, it says to the courts that we think the courtroom ought to be open. Second, it says that we think it ought to be open in accordance with court rule which allows you, the courts, to determine under what situations and under what circumstances things will be broadcast on the electronic media from the courts.

I differ with the Representative from Damariscotta in thinking that the courts can and do control how something is broadcast from the courtroom. They cannot control what is said before or after the trial nor should they be able to do so, but they certainly can control what is broadcast from the courtroom.

There is one other thing that I think you all ought to be aware of and perhaps some of you are not. TV is a great shaper of the public opinion. To say that people do not have their view of the courts shaped by TV now is, in fact, terribly naive.

When I sit down with a client who has to go into court, the first thing I have to tell that client is that, this is not like TV. This is not Perry Mason. People will not jump from the witness stand and confess. Lawyers will not act like Counselor Burger. People now have a fixed image of what goes on in a courtroom, that image is fiction, unfortunately. Opening up the courts to the electronic media in accordance with the rule controlled by court, I think will serve a very useful purpose in giving people, who pay taxes to run the courts, an idea of what is actually going on in those courts. I think this is very important, I think it is controlled, I think it is a moderate bill and I would urge you to support it.

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: In answer

to the Representative from Brunswick, I would simply point out that our courts have been open to the public ever since our constitution was enacted. The admission is free. There is no charge to attend a court hearing anywhere in this state, so, we are not opening up the courts through such legislation. The courts are already open to the public.

Now, as to the control over what comes over the tube, I am talking about control after it has been filmed. After the cameras have ground out their work, the court has no control in deciding what the product is that is exhibited to the public. I think that the Representative from Brunswick knows that any attempt by the court to prevent them from showing any one frame of what they have taken down on camera would be censorship and would be in violation of the first amendment.

So, the media will control what is shown on the six o'clock news, not the court.

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

Representative MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: Not many times do I oppose the Representative from Westbrook, Representative Carrier, but today I have to. I believe it is time for us to open up the courtrooms to those people who have to travel too far to go to the courts. I believe it is time that we show the condition of our courtrooms on our televisions. I firmly believe that, if this bill had been enacted two or three years ago, the referendum for new courtrooms in this state would have passed last year.

The SPEAKER: The Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I just want to make one quick statement, I feel exposure leads to credibility. In this particular case, I think the electronic media is needed. If we read about the court system and we understand what goes on and the people who have to participate in those actions will be better informed. I hope you will go along and recede and concur on this bill.

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

Representative WARREN: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I rise to concur with the comments made by the proponents of this legislation today. I do think it is responsible. I think it is a very measured step that won't harm anyone and it will increase citizen knowledge in the courts.

I would just like to respond to one point and that is a point raised by the good Representative from Damariscotta, my senior barrister colleague, Representative Stetson, who is concerned about what the media will show on the six o'clock news. After attending a trial all day, he is concerned about what they will show and what they will not show. My response to that is that that happens anyway right now in a free society with first amendment rights. For instance, take this legislative session, I voted with Representative Stetson on several occasions. I have worked with him on a civil OUI bill that he has put in, which is a very good bill. But despite all these good things I have done, what did the people in my district learn about me last week? They learned that I sit at my chair sometimes and yawn. What they have done, the news media on the floor of the House, is selectively edit what they have seen here and, out of all the things that I have done, they have chosen to show the people back home, including my mother and father, that I occasionally yawn. My question is, should we ban the news media from the legislature and, as much as I might like to say yes right now, I guess I'd say no.

I hope that you do vote the green light and

vote to recede and concur and give this legislation a chance.

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

Representative CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: We don't have to go through the same exercise as we did last year. The arguments are the same. The arguments for it are worse and the fact is that they are actually trying to put a smoke screen on this bill. Well, don't be confused. Just picture yourself and think of the people that are in this House that have very, very personal reasons for themselves or members of their families or their in-laws not to be shown on TV to be embarrassed. This is what this bill is all about. The proponents of the bill always come back to fairness, but this morning, they made a major error in saying, fairness to the defendants. The bill, even if the plaintiff wants to go on TV and, this is where they made their error, that the defendant wants to go on TV, but if the judge doesn't want it to, it doesn't go on. Now, is this fairness? Are we going to resort to distorting the facts in order to promote a bill which can be very, very dangerous?

I do not vision — cases like rape. Now do you really want to put the woman that was raped on the TV? What good would that do? On the other hand, this is what some of the attorneys will do. If you have a grandstand approach to the thing, that they can get free advertising by the way that they behave. Then they promote their case, regardless if it has any value or not.

I am concerned about the people that will be subjected to morbid exposure on TV. I don't think we need that. Who wants to see somebody getting shot or something like that? You always see them take out the corpse. I think it is in bad taste. I think this bill will promote bad taste and will embarrass people to no end for the rest of their lives. I don't see any value to the bill and I submit you that you vote against the recede and concur.

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

Representative ALLEN: Mr. Speaker, Men and Women of the House: As a member of the Majority Report of this legislation, I just wanted to reassure this House that those ten members of the committee that signed this legislation out in the manner that we did, which was "Ought to Pass" did so, not to create a smoke screen, but after having carefully listened to both sides of the argument, and we did listen carefully, to both sides of the arguments, we did feel that this was a fair proposal. We made a judgement decision that, yes the courts are to be open to the public and that we felt very strongly that the judiciary ought to control how that happens. That is the amendment. The amendment in no way is an attempt to fool anybody or to smoke screen anyone. We simply felt that this was the appropriate way to go and I would urge you this morning to vote recede and concur.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I don't know how many of you have been on the witness chair or been in court, I have. It is distinct, something different than you have ever done before. You are nervous, you have the lawyer in front of you, he asks you a question, you can't answer it because he says yes or no, you fumble.

If Representative Warren is concerned about how he looked yawning, just think how these people feel on the stand. I don't think that cameras should be in the court. I think it is a private affair. If you are really curious, go to the courtroom yourself.

Representative Warren of Scarborough requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Paradis of Augusta that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 164

YEAS:—Aliberti, Allen, Baker, H.R.; Bost, Bott, Boutilier, Brannigan, Brodeur, Callahan, Carroll, Carter, Cashman, Clark, Coles, Connolly, Cooper, Cote, Crouse, Daggett, Davis, Descoteaux, Diamond, Drinkwater, Foss, Greenlaw, Gwadosky, Hale, Handy, Hayden, Hepburn, Hichborn, Higgins, H.C.; Hoglund, Jackson, Joseph, Lacroix, Lebowitz, Lisnik, MacBride, Manning, Martin, H.C.; Mayo, McCollister, McGowan, McSweeney, Melendy, Mills, Mitchell, Murray, Nadeau, G.G.; Nadeau, G.R.; Nicholson, O'Gara, Paradis, P.E.; Paul, Priest, Reeves, Rioux, Roberts, Rolde, Rotondi, Ruhlman, Rydell, Simpson, Stevens, P.; Tammaro, Tardy, Theriault, Vose, Walker, Warren, Weymouth, Zirnkilton, The Speaker

NAYS:—Armstrong, Baker, A.L.; Beaulieu, Begley, Bell, Bonney, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Carrier, Chonko, Connors, Dillenback, Erwin, Farnum, Foster, Harper, Hickey, Higgins, L.M.; Hillock, Holloway, Ingraham, Jacques, Jalbert, Kimball, Lander, Law, Lawrence, Lord, Macomber, Masterman, Matthews, McHenry, McPherson, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Nelson, Nickerson, Paradis, E.J.; Parent, Perry, Pines, Pouliot, Rice, Richard, Ridley, Salisbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sprout, Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Taylor, Telow, Webster, Wentworth, Whitcomb, Willey

ABSENT:—Crowley, Dellert, Dexter, Duffy, Kane, Michael, Racine, Randall

74 having voted in the affirmative and 69 in the negative with 8 being absent, the motion did prevail.

Representative Paradis of Augusta, having voted on the prevailing side, moved to reconsider whereby the House voted to recede and concur.

Representative Gwadosky of Fairfield moved the matter be tabled until later in today's session.

Representative Paradis of Augusta requested a Division on the motion to table.

The SPEAKER: The pending question before the House is the motion of Representative Gwadosky of Fairfield to table this matter until later in today's session. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

76 having voted in the affirmative and 58 in the negative, the motion did prevail.

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

HOUSE DIVIDED REPORT—Majority (9) "Ought to Pass" — Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-352) — Committee on Business and Commerce on Bill "An Act Relating to the Authority of Medical Service Organizations and Non-profit Hospitals to make Incidental Indemnity Payments" (H.P. 1129) (L.D. 1636)

TABLED—June 7, 1985 by Representative BRANNIGAN of Portland.

PENDING—Motion of same Representative to accept the Majority "Ought to Pass" Report.

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

Representative BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: The report before you deals with the Blue Cross-Blue Shield Issue. Blue Cross-Blue Shield is a very special creation of this legislature, special act, special section of the law with many restrictions and many charges put to it. Blue Cross-Blue Shield is charged with writing individual policies in this state, group policies, writing for the elderly. We expect them to do that. They are also put under certain strictures, they do not have life insurance, they do not have disability insurance and we even direct how their board of directors is to be set up.

Because of all these charges and restrictions, they receive certain assistance to carry out these charges. That assistance deals with premium tax, they are a non-profit organization and they do not pay a premium tax.

It is very important that this group stay healthy, that is be able to write some of these undesirable types of policies. In order to do that, it must be able to write some of the desirable types that will keep their revenues over expenses. That is what a non-profit corporation has instead of profit.

Now, there is a new type of plan being written in the health insurance business called a comprehensive plan. It is different from the plan we are used to but it is the plan that is most popular today especially in large companies. The comprehensive plan means that, instead of having the old tri-part; hospital, medical, doctors, Blue Cross-Blue Shield and then a major medical part that has a deductible, these are all wrapped together into one and deductibles can be in place in all parts of it, hospitals, doctors and other parts.

Now, the problem is Blue Cross-Blue Shield can't write one of these comprehensive plans. They can't compete with the commercial insurance companies on these plans right now because of one of the restrictions that we put on them is that they do their work by contract only. They have a contract with the hospital, they pay the hospital. They have a contract with the hospital, they pay the hospital. They have a contract with the doctor, they pay the doctor. They don't have the right to do indemnity, which is they pay you and you pay. There is a problem there. There is a problem there with comprehensive plans. Comprehensive plans are going to take in everything. Now, when you take in everything, you are taking in pharmacists, you are taking in those that deliver oxygen to your home, you are taking in those with wheelchairs and other assistance that help in the home area, the community area. It is almost impossible for them to go out and contract with every one. They can contract with doctors, they can contract with hospitals, but for them to go out and contract with every supplier throughout this wide state, would be very difficult or near impossible.

So, what this bill has asked us to do is to allow them to depart in one small area of their business, from the contract requirement that we have put on them. That in no more than 10 percent of their business, they can do indemnity payments. They can pay to you, you pay your pharmacist, you pay your home health supplier. That will make a more even distribution and fairer approach and will allow them to write comprehensive plans. What we have said, however, in the report which the majority of the committee is on, on that part where you depart from contracting requirements, you will pay a premium tax. We are not talking about increases in premium but a premium tax.

So, I would ask you to go along with the majority of the committee and support this brief departure so that Blue Cross-Blue Shield can remain a healthy company, which it is, and that it can do all of the things that we require it and we need to have it do in the future. I ask you not to consider the Minority Report, which would have them pay a premium on the whole

business that they write dealing with comprehensive plans. I think that is too much, too far and too fast at this time.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: There are two types of insurance companies out there competing for your health dollar. On the one side, there are the non-profit companies and in this state we have Blue Cross-Blue Shield.

The other group of companies competing for your health dollars are the for-profit insurance companies, Union Mutual, Travelers, Aetna, Mutual of Omaha, you name it.

In this state, we grant tax exempt non-profit status to Blue Cross and Blue Shield. There are many reasons we do this and many of them are valid.

The other companies competing for your health dollar pay a premium tax of either one or two percent into the state's general fund. This amounts to a significant amount of money. Every time Union Mutual writes a health contract in Maine, if the premium is \$100, one percent of that or one dollar goes to the state's general fund. For a company not domiciled in Maine, Mutual of Omaha, Travelers, Aetna, you name it, they pay a two percent sales tax into the state's general fund.

This particular bill deals with a product that commercial insurance companies can offer, do offer I assume, and pay a premium tax to the State of Maine. Blue Cross and Blue Shield wants to sell this new product called a Comprehensive Health Plan, market it to groups, large groups and small groups in the State of Maine. This is in direct competition, of course, with the for-profit insurance companies. Blue Cross and Blue Shield, according to the testimony, presently writes anywhere from 55 to 65 percent of the health insurance in the State of Maine. They almost have a monopoly in the health insurance business in the State of Maine.

As Representative Brannigan pointed out, Blue Cross and Blue Shield wants to offer a new product that currently wants to compete in the market for a new product called a Comprehensive Health Plan with the for-profit insurance companies.

Those of us on the Minority Report felt yes, Blue Cross and Blue Shield should have a right to enter new markets. However, in doing so, we felt that they should, at the very least, be required to pay the one percent state premium tax on the new product they want to market called the Comprehensive Health Plan.

The Majority Report said, wait a minute, this new product that the blues want to market in Maine is not really a new product since a lot of the benefits blues are already writing and providing in their service contracts. So, the Majority Report said, let's just tax them for one percent of ten percent of the premium on their new contract. As I say, the Minority Report says, if the blues want to compete with other writers of medical insurance on a new product, they should at least pay the same tax that the domestic companies pay which is a one percent premium tax.

We felt that if there is going to be a horse race out there, at least they both ought to be starting from somewhere near the same position.

I urge you to vote no on the pending motion so that we can consider the Minority Report on this matter.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Business and Commerce Committee, I signed on Blue Cross and Blue Shield's bandwagon in an action of fairness. In the testimony, the major competition of Blue Cross and Blue Shield emphatically indicated ab-

solutely no desire to write all applicants for basic insurance. They were interested only in the lesser risks.

I don't know about you, but Blue Cross and Blue Shield is a very personal thing to me, it means security and integrity. I don't mean to say that other insurances don't have these characteristics but I have a personal relationship with Blue Cross and Blue Shield every time I have to maintain the service. That personal touch will continue in their extended ability to write a comprehensive insurance.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I am on the Minority Report for a variety of reasons, some of which have already been discussed. The insurance industry in the State of Maine dealing with health insurance is dwindling. There are only fifteen insurers in the State of Maine that deal with this. Just recently, Aetna left the State of Maine. Travelers have scaled back their insurance coverage considerably. The market in the State of Maine has already been given as 55 percent going to one provider and that is Blue Cross-Blue Shield. I have no problem with that.

They were designed as a non-profit service operation to take care of the medical service for the State of Maine and they have done well, but to present a level playing field in a competitive market, we need this to help keep some sort of cap on our rising medical costs. I am a firm believer that the best product is sought through competition.

A few facts here on what this would mean to the State of Maine. First, one percent of every account that Blue Cross-Blue Shield would take, which they would take many, would be lost to the State of Maine and it would be 2 percent if it was an out of state company that lost that account. There are some large accounts in the State of Maine. Just two accounts that Blue Cross-Blue Shield now is working on pending this legislation would amount to a loss of over \$200,000 to the State of Maine. Now that is the effect on just two accounts to the State of Maine.

I am a firm believer of the competitive marketplace. I think it is naive to think that subsidizing this plan even more would be healthy to the industry as a whole. All parties concerned felt and agreed that it is very possible that Blue Cross-Blue Shield would go from 55 percent of the market to over 80 to 85 percent of the market. Now tell me, can competitive rating take place there even though they are a so-called non-profit organization? Can the alternative be available to all the industry in the State of Maine? I think not. As a firm believer of the marketplace, I urge you to reject the pending motion and support the Minority Report. This would be a step toward a viable business, a competitive market, in the State of Maine and I think that we have to go along these lines.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: My fellow colleagues, I understand this issue is very confusing. It was confusing for us on the committee and it is difficult for us to try to sort out the comprehensive package versus the normal package and the indemnity and how this all fits together.

I think the thing to remember is that we have to maintain the present system enough so that Blue Cross and Blue Shield can continue to write the policies that other companies don't want to write now. We charge Blue Cross and Blue Shield, as Representative Brannigan pointed out, to write those policies that the other insurance companies simply aren't interested in or are not writing. In order for Blue Cross to continue to do this, they have to be

able to compete in some of those more attractive and lucrative contracts that the other private insurance companies are participating in. In order to do that, Blue Cross and Blue Shield simply has to be able to write this type of a comprehensive package which is what the businesses in this state, primarily the large groups, are interested in purchasing.

Some of the previous speakers have talked about the market share of Blue Cross and Blue Shield and how that many increase and how, if we did this, it would create an unfair advantage to Blue Cross and Blue Shield.

I think it is important to point out that every year since 1982, the number of contracts, large group contracts written by Blue Cross and Blue Shield, has decreased. I think what we are faced with is a situation where, if Blue Cross and Blue Shield is not allowed to compete with these other companies for these attractive type contracts, they are going to continue to decrease in their market share. If they continue to decrease, we are going to run into a problem of not having anyone out there to write those undesirable contracts that have to be written.

So we are faced with a situation where we have to maintain that level of competitiveness and also address the situation of fairness. That is why the Majority Report on this particular bill stressed that, if we allow this type of comprehensive package where ten percent would be allowed as an indemnity, then in that ten percent, the tax rate would be the same as that charged for the domestic insurer in this state. In other words, if they are going to write a package, we are going to tax that portion of the package ten percent, which by the way is less than is normally written by the private Blue Cross company that is usually around 8.7 percent. What we are saying is, we are taxing ten percent of the comprehensive package no matter what at the same rate we charge the private domestic insurers in this state so that they are allowed to underwrite the type of comprehensive package that the businesses in this state are interested in purchasing.

The final thing I would like to point out is that this type of enabling legislation has been allowed in every other state except the State of Maine. Maine is the only state where Blue Cross and Blue Shield is not presently allowed to write this type of a package which includes incidental indemnity. I think it is time that we see the fact that Blue Cross and Blue Shield has to be allowed to compete like other companies and that we allow this modest step so that the fairness can continue and the market share can continue as it is.

I hope you support the Majority Report. The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: As a signer of the Minority Report, I concur with everything that Representative Murray and Representative Brannigan have said about that Majority Report. All of us want Blue Cross-Blue Shield to be a viable health organization to serve the people of the State of Maine. The question is how we go about doing it. To me, this is a question of tax policy and government policy as to how we treat our non-profit taxed insurance companies. It is a matter of fairness. Do we as a state, give special protections to Blue Cross-Blue Shield to sell a product that is offered by our private industry and does it allow them to compete unfairly with them?

Superintendent Briggs, when he came to us with this bill with Blue Cross-Blue Shield, said he is worried about erosion of the market share of the blues. I understand that, I sympathize with that. I want them to have their market share. However, I feel that this bill, the majority bill will give them a quick market share that we are violating a state policy that should be how we tax people who compete privately and whether or not we tax organizations that are

non-profit and in what section of their service plan we are going to tax them.

This is really a tax issue. I think everybody on our committee agrees we want Blue Cross and Blue Shield to be viable. The 1965 Mahony case dealt specifically with the Blues selling indemnity coverage and found that, at that time, that if they sold indemnity, they would be classified as an insurance company. If they are going to be an insurance company and sell a product, I think they ought to be taxed accordingly on that product that they sell that is an insurance product.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clarify a couple of things here. Blue Cross and Blue Shield of Maine might be the only company that does not offer a comprehensive plan in the country. That I am not too sure of but I do have a list here of the other states in this country and Blue Cross-Blue Shield does not offer a comprehensive plan. But let me just list a few of them, State of Alaska, they paid six percent of gross premiums, less claims paid. They pay a tax. Sure they have the comprehensive. These other states pay their tax that makes them move towards a more level playing field. The State of Georgia, 2.25 percent; South Carolina, two percent; 2.5 percent for South Dakota. So, I think that was an inaccurate statement. These other states have allowed Blue Cross-Blue Shield to go in this area and they pay the going rate on the premium tax. They also favor them too, as they should, as in the State of Maine.

Blue Cross-Blue Shield does not pay state income tax. They do not pay federal income tax. So, I think we have to look at that. They still have preferential treatment.

In the State of Maine, Blue Cross-Blue Shield has stated that their accounts have been going down since 1982. That may be so. It is going down and it is staying viable because they have large accounts now, they are no longer insuring the small groups. Bath Iron Works is certainly not a small Mom and Pop store. They offer this program to them because they have the Blue Cross-Blue Shield and also they own a profit company called Blue Alliance and the whole thing is pretty competitive to the comprehensive plans that other states operate. All I am saying to you is that the margin is small here and we are talking about some accounts ranging from \$5 million and up, a one or two percent edge makes a difference. This is a sophisticated marketing program and that margin in itself is going to turn the market in the state from an oligopolistic to a monopolistic market. Is that the way we want to go?

I urge you again to vote against the pending motion and accept the Minority Report.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I would ask you to vote in favor of the pending motion and accept the Majority Report for a very important reason. That report provides for a one percent premium tax on ten percent of the premium on these comprehensive policies. This represents very little change from our present system and that is the important point. It protects the non-profit service organization of Blue Cross during what I think will be a period of transition. We will need to look at how this change affects groups and how it affects the coverage for individuals who are dependent upon Blue Cross coverage because they cannot obtain that coverage elsewhere. Perhaps during this interim period, some of the insurance companies will begin to look at providing coverage for those groups of individuals, perhaps they will not.

I think the time may be near when the State

will need to reexamine the present system of restrictions, demands and special exemptions for Blue Cross. In the interim period, we must maintain the viability of Blue Cross-Blue Shield and we must not take any major changes in the system. To require that Blue Cross pay a one percent premium tax on the entire comprehensive policy, when only a very small portion of that policy represents a new and changed way in which Blue Cross will provide service, will be a major change.

The effects of these new policies will become apparent in the next few years for both Blue Cross and the insurance companies. We must maintain the viability of Blue Cross. Too many individuals, who cannot get insurance elsewhere, are dependent upon that. Please do not make any major changes in our system at this time. I would ask you to vote to keep our present system virtually intact while we assess what changes are necessary and to vote with the majority of the committee.

Representative ARMSTRONG of Wilton requested a roll call vote.

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

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Armstrong.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I had a question a while ago so I just want you to be sure you know what you are voting on. The Majority Report says that, yes Blue Cross and Blue Shield can sell a new product called a Comprehensive Health Plan in competition with the for-profit insurance companies. But the Majority Report says that we will only make Blues pay a one percent premium tax on ten percent of that premium or one percent of \$10 in that example.

The Minority Report says, sure, Blue Cross and Blue Shield can sell this comprehensive health plan, both reports do, both reports allow Blue Cross and Blue Shield to sell a new product called a Comprehensive Health Plan in direct competition with all the for-profit insurance companies.

The Minority Report, however, says that on that product, if they want to compete, fine, let them compete, let them do it but charge them the same premium tax that everybody else has to pay. One percent on \$100 premium, one dollar tax to the general fund. So to me, it is simply a matter of fairness. Neither report is trying to keep the blues from entering this new field. It is simply saying we require everybody else on that product to pay state premium taxes, either one percent for the Union Mutals or two percent for those companies that are domiciled out of the State of Maine. To me, it is strictly an issue of fairness. The testimony of Representative Murray of Bangor seemed to indicate that the blues are having some kind of problem. Well, any industry that has 55 percent of the market, it is awfully hard to feel sorry for them. Everyone on the committee thought they should be able to offer this comprehensive health plan and it is simply a case of if you want them to do it in a fair manner, competing fairly in the marketplace.

So, I urge you to vote no on the Majority Report so that we can consider the Minority Report which says fine, let them sell the health product but at least let them pay the minimum premium tax that the domestic companies offering the same product have to pay.

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: We are hearing a lot about fairness and a lot about level playing fields and, if that were the case, then

we would have to say that Blue Cross and Blue Shield would not, first of all, they have 55 percent of the market. What market? The whole market no one else wants to write. That is one of our requirements that they cover everyone, that we don't allow them to have other things to package together that everybody else has, disability insurance, life insurance. This would even say that they have to contract 90 percent of the business within that comprehensive plan. There is nothing square on this issue. If we are going to go to a full open competition, then we would have to make some drastic changes in the way we require Blue Cross and Blue Shield to operate and that would be, at this time, be disastrous for this state.

Representative Hillock of Gorham was granted permission to address the House a third time.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: There are six people in this House that could decide this vote and I want to address everybody here and let you know that Blue Cross and Blue Shield, across the country now, have not gone out of business. They have competed and nothing is a real level playing field, I will grant you that, but I think we ought to look at that.

Even if you accept the Minority Report, which moves toward that area, they can still have an advantage. Again, they don't pay state or federal income taxes and out of state insurance companies still have to pay a two percent premium tax to the State of Maine so they still have a tremendous advantage. I agree they should have that tax exemption advantage in that area. But let me say again, I do not feel that they are certainly going out of business. If that were the case, why didn't the other 49 states with Blue Cross-Blue Shield go out of business when they entered the equal playing field in this market? They pay the going rate when they compete with the like product. Again, this is a like product and, under statute, they were forbidden to do this when we set up the non-profit status under Title 24.

Think this out, just ponder one moment before your next vote because it is very important that we keep a competitive market in the State of Maine and certainly keep our Blue Cross-Blue Shield viable.

Again I reiterate, some of these accounts are large which Blue Cross-Blue Shield already has. I do not consider Bath Iron Works a small employer. Again, I urge you to vote against the pending motion.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: May I again reiterate? I know there are many in this House that do not know the technicalities that are being presented here today. But I also know the majority of us, if not all of us, still have Blue Cross and Blue Shield coverage. Just think of the possibilities of losing this type of insurance, losing the personal care that they afford us. I think the major insurance companies can survive in their own field of expertise. Let the Blue Cross and Blue Shield continue to offer these fine services to all of us in a comprehensive plan.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I did not want to get involved in this discussion today but it appears to me that the Majority Report is setting a new type of tax policy, a policy which has not been reviewed by the committee on which I serve. It appears that the Minority Report, though changing the way Blue Cross and Blue Shield is handled, is not changing the policy. I urge this body either to rerefer this bill to committee or to accept the Minority Report.

The SPEAKER: The Chair recognizes the

Representative from Portland, Representative Higgins.

Representative HIGGINS: Mr. Speaker, Men and Women of the House: I have become aware of this bill much in the same way my colleague from Thomaston has. Apparently, a short time ago, a joint order was passed by both houses that ordered the Business Legislation Committee to report out the bill dealing with this subject. As I understand it, the original bill was a Senate paper and therefore the committee was apparently leaning in the direction of providing some tax portion in the bill at that time. Because the constitution requires that all revenue raising measures originate in the House, the need for that joint order to report out that bill was apparent. Much like my colleague from Thomaston, I found out about this bill in the halls from a member of the Minority Report, pointing out this tax provision which clearly is Section 3 Title 36 and Title 36 is the tax statutes for this state.

I join my colleague in being somewhat uncomfortable, not particularly knowing what to do at this point in time. During the 110th Legislature, a bill to extend this premium tax to Blue Cross-Blue Shield was before the Taxation Committee. No action was taken at that time. After a public hearing and after the committee deliberations, by granting the bill Leave to Withdraw or ought not to pass, there was no sentiment on the Taxation Committee to extend the premium tax to Blue Cross-Blue Shield. For these reasons, I am somewhat uncomfortable. I have discussed the prospects of refer to the Committee on Taxation so we might want to discuss that. I would merely point out to this House that the insurance premium tax is now under consideration, although not in an L.D. format, before the Committee on Taxation. I don't know which way I would propose to direct this House at this time except that I am uncomfortable with the tax provisions in the bill.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I wish to pose a question through the Chair.

Since we are talking about increasing or changing the policy of how the insurance premiums are paid, I would presume that there would be a fiscal note on both pieces of legislation, whether it be the Minority or Majority Report, and I wish someone could inform the House as to the magnitude of the difference between Report A and Report B.

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

The Chair recognizes the Representative from Portland, Representative Brannigan.

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: The fiscal note says that there may be some impact. There seems to be a wash on the report before us. The other one is totally speculation as to whether one group will do better than the other in competition and the last fiscal note I had did not give a monetary amount.

Representative Armstrong of Wilton was granted permission to address the House a third time.

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: The whole issue is the premium tax issue. Both reports allow the Blues to sell this new product called Comprehensive Health Plan.

In my opinion, and I believe even the proponents of the Majority Report, will concur that even in the Majority Committee Report, for every new risk that the Blues write on the Comprehensive Health Plan, assuming that that account was written before by a for-profit insurance company, there will be a significant tax loss to the state's general fund. With the

Majority Report, we are only going to tax one percent of ten percent of that premium. In the current instance, if that account is being written by Aetna or you name it, they are paying a one percent tax on the whole premium.

The Minority Report lessens the tax impact to the State of Maine, which was one of my considerations for signing it. It says, for every new group that Blue Cross-Blue Shield picks up, under a comprehensive health plan that is currently being written by a for-profit insurance company, the Blues are going to be paying one percent tax on that whole premium. There could still be a significant loss to the state's general fund, because if the company they are competing with is not domiciled in Maine, say Travelers, Mutual of Omaha, Aetna outside the state, they are currently paying a two percent sales tax on that whole premium. So, even with the Minority Report, which I am on, there is still going to be a significant tax loss to the State of Maine. However, on the Minority Report, the tax loss is minimized compared to the dollars that are going to be lost if you allow the Blues to go out and compete against tax paying insurers.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: Very briefly, the Majority Report does recognize the need to allow Blue Cross and Blue Shield to market this type of comprehensive package, which many of the large businesses in the state want to purchase.

The problem with the Minority Report is that it begins a major departure from the present system by taxing 90 percent of that comprehensive package, which is presently not taxable. Ninety percent of the comprehensive package, under the new proposal, would still be a Blue Cross or Blue Shield type of a product. The Minority Report says that that should be taxed the same rate as the other companies which, right now, is not taxed at all.

So, what the Majority Report is saying, we are recognizing the need to allow this type of comprehensive package and we are saying that the newness of this package, the indemnity portion of it, should be taxed at the same rate as the private companies are now paying. It recognizes that fact and it sets it up to tax that.

The Minority Report says, we will recognize a comprehensive package but we will tax everything. We will tax 90 percent of that comprehensive package, which is presently not being taxed. I think that is a major departure from our present system. It is one that I would not support right now because Blue Cross-Blue Shield does provide a service that no other insurance company is willing to provide.

I think the Majority Report is a reasoned, balanced, approach and I would hope that you would support it at this time.

Representative Hillock of Gorham was granted permission to address the House a fourth time.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take just one more moment because it is a complex issue. First of all, the Minority Report, as in the Majority Report, would not affect the way Blue Cross-Blue Shield operates now. There would be no tax difference in the way that they operate now. Whatever they market now would be under the same regulation as it is right now.

It is very difficult to put a fiscal note on this but one can only assume that it is going to cost the state a considerable amount of money. Just two accounts that are under negotiations now are over \$10 million. Take one percent, as a very conservative figure or if they are out of state, two percent of that, that is a direct cost to the State of Maine so we are talking over \$200,000 and that is just two accounts. When anyone can go in with this advantage, again I say, it is logical to see which way it is going.

Blue Cross-Blue Shield does compete in the large market with their exemption now and I urge you again to reject the Majority Report.

Representative Nadeau of Saco moved the previous question. The pending question was "Shall the main questions be put now?" A vote was taken. 75 having voted in favor of the same and 36 against, the main question was put now.

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

ROLL CALL No. 165

YEAS:—Aliberti, Allen, Begley, Bell, Bonney, Boutilier, Brannigan, Brodeur, Brown, A.K.; Carroll, Clark, Coles, Connolly, Cote, Crouse, Crowley, Daggett, Descoteaux, Diamond, Dillenback, Erwin, Farnum, Gwadosky, Hale, Handy, Hayden, Hichborn, Hickey, Higgins, H.C.; Hoglund, Jalbert, Joseph, Lacroix, Lawrence, Lord, Macomber, Manning, Martin, H.C.; McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, Moholland, Murphy, E.M.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, O'Gara, Paradis, P.E.; Paul, Perry, Pines, Priest, Reeves, Rice, Richard, Ridley, Roberts, Rolde, Ruhlin, Rydell, Salsbury, Scarpino, Sherburne, Simpson, Smith, C.B.; Smith, C.W.; Soucy, Tammara, Telow, Vose, Walker, Warren, Wentworth, Zirkilton.

NAYS:—Armstrong, Baker, A.L.; Baker, H.R.; Beaulieu, Bost, Bott, Bragg, Brown, D.N.; Cahill, Callahan, Carrier, Carter, Cashman, Chonko, Conners, Cooper, Davis, Dellert, Dexter, Drinkwater, Duffy, Foss, Foster, Greenlaw, Harper, Hepburn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Kimball, Lander, Law, Lebowitz, Lisnik, MacBride, Masterman, Matthews, Mayo, McColister, McPherson, Mills, Murphy, T.W.; Nickerson, Paradis, E.J.; Parent, Pouliot, Rioux, Rotondi, Seavey, Small, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Tardy, Taylor, Theriault, Webster, Weymouth, Whitcomb, Willey.

ABSENT:—Jacques, Kane, Michael, Racine, Randall, Swazey, The Speaker.

79 having voted in the affirmative and 65 in the negative with 7 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

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

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

Bill "An Act Relating to the Administration of Vocational Education" (S.P. 628) (L.D. 1645)

TABLED — June 7, 1985 by Representative BROWN of Gorham.

PENDING — Passage to be Engrossed.

On motion of Representative Brown of Gorham, retabled pending passage to be engrossed and tomorrow assigned.

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

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

TABLED — June 7, 1985 by Representative DIAMOND of Bangor.

PENDING — Passage to be Enacted.

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

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

Bill "An Act to Amend the Probate Code to Improve Guardianship and Conservatorship Proceedings" (S.P. 218) (L.D. 577) (C. "A" S-176)

TABLED — June 7, 1985 by Representative

ALLEN of Washington.

PENDING — Motion of Representative STETSON of Damariscotta to Indefinitely Postpone Bill and Accompanying Papers.

On motion of Representative Allen of Washington, retabled pending the motion of the Representative from Damariscotta, Representative Stetson, to indefinitely postpone bill and all accompanying papers and later today assigned.

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

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

TABLED — June 6, 1985 by Representative HAYDEN of Durham.

PENDING — Adoption of Committee Amendment "A" (H-154) as amended by House Amendment "A" (H-263) thereto.

On motion of Representative Hayden of Durham, retabled pending adoption of Committee Amendment "A" (H-154) as amended by House Amendment "A" (H-263) thereto and tomorrow assigned.

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

SENATE REPORT — "Ought to Pass" as amended by Committee Amendment "A" (S-210) — Committee on State Government on Bill "An Act to Establish Legislative Council Oversight of Expenditures for Joint Standing Committees, Joint Select Committees and Legislative Investigating Committees" (S.P. 587) (L.D. 1544)

— In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-210) as amended by Senate Amendment "A" (S-236) thereto.

TABLED — June 7, 1985 by Representative MURPHY of Kennebunk.

PENDING — Acceptance of Committee Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of Committee Report and later today assigned.

The Chair laid before the House the following matter: Bill "An Act to Amend the Code of Fair Practices and Affirmative Action as the Equal Opportunity Standard for State Financed Agencies" (S.P. 166) (L.D. 453) (C. "A" S-222) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question from the good Representative from South Paris, this bill and its amendment, are an answer to the request by the U.S. Department of Justice, the federal government in particular, to amend the code of fair practices and the affirmative action plan that each state must have in order to receive federal funds. Those practices, in our hiring plan, must reflect the hiring practices that are set forth in different supreme court decisions, the law of the land and when we amended this to include physical, handicapped in some portions and mental handicapped; in other words, no one can be denied a job if that person is qualified, notwithstanding a physical or mental handicap. That is the present policy of the state but that policy is not specifically mentioned in our human rights act and in our affirmative action plan. So, what this bill does is just put those two words, key words, into those plans to reflect what we must already be doing in order to qualify for federal funds. I hope that answers the questions of the good gentledady.

Whereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" (C. "A" S-222) in concurrence.

On motion of Representative Connolly of Portland, having voted on the prevailing side, the House voted to reconsider its action whereby it voted to accept the Majority "Ought Not to Pass" Report in concurrence on Bill "An Act to Require Public Utilities Commission Approval of Significant Agreements and Contracts by Public Utilities" (S.P.436) (L.D. 1203).

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

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: The current piece of legislation that I am going to address today deals with a matter that was before the Public Utilities Committee. I really felt that it was important that the matter be brought before this body because this particular issue is not going to go away from us and that is why I felt that it was important to address this body on the issue.

This particular piece of legislation would require the Public Utilities Commission to give prior approval to significant agreements and contracts by public utilities. In its current form as amended, it would deal with those agreements affecting the New England Power Pool. Now, the Public Utilities Commission has stated, that while they hadn't supported the particular piece of legislation, it was their intention to look into the matter and perhaps report back to us in January as to whether or not appropriate legislation would be necessary. The disagreement here on the committee is simply one of whether or not the legislature could take action right now or wait to hear from the Public Utilities Commission.

It was my feeling and the feeling of those members who signed the report out that it was time for the legislature to take action, and basically say, we want the Public Utilities Committee to review significant contracts and agreements affecting our public utilities agreement with the New England Power Pool. Why should they review these agreements prior to them being signed? As you know, ratepayers are currently facing paying increased costs due to investments made by public utilities in the generating facilities that were later cancelled. At some point, a utility investment is made and if the plan is cancelled, that lost investment falls on the ratepayers in some form. Recently, there was an agreement made between Central Maine Power Co, and the Public Utilities Commission and the public advocate affecting who will pay what part of that loss. However, wouldn't it have been nice to have the Public Utilities Commission be able to say, no, this is not a very good agreement to go into and save us all the problems in the long run?

I like to think of L.D. 1203 as sort of preventive medicine. We can get at the problem before the problem arises.

I don't want to belabor the point much longer as we see the way that the report has gone in terms of what is going to happen. Legislation affecting the prior agreement, the prior approval, to contracts by a public utilities with the New England Power Pool may, at some point, be before this body next year. What I would like this body to think about is two things: (1) shall we try to prevent these problems of bad investments before they arise? (2) shall we, as a legislature, begin to shape utility policy as opposed to waiting for the Public Utilities Commission to come to us to tell us what policy they would like from us? Those are the two points I would like to leave with you regarding this legislation.

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I can't disagree all the way with my good friend, Representative Baker, but I will read into the record the letter that the Public Utilities Commission sent to us and then also make a few remarks on

what my opinion of the prior approval of certificate of contracts.

This is addressed to the House Chair and the Senate Chair and it says: "Dear Senator Baldacci and Representative Vose: L.D. 1203, as originally drafted, would require electric utilities to receive the Commission's prior approval of all significant agreements and contracts as defined by the statute. Testimony during hearings on the bill indicated that passage of this legislation would bring a significant number of various contracts within the jurisdiction of the PUC. Accordingly, the Commission drafted and Senator Kany submitted an amendment to the bill, which would provide that it applies only to NEPOOL and other significant energy related contracts. However, the number and nature of contracts, which would fall within this amended version, is not entirely clear at this point. Furthermore, the Commission has not had time to come to final position as to whether it believes all or some of these contracts should be subject to its prior approval. Accordingly, the Commission has agreed to conduct a review of existing and anticipated NEPOOL and other significant energy related arrangements such as electric utilities. We would invite the utilities, the public advocate, Senator Kany to participate in the process. The purpose of this review would be to ascertain the number and nature of such arrangements, develop an initial or preliminary understanding of how they work and how they affect Maine ratepayers and determine whether issues might exist with respect to such arrangements, which would warrant further review as studied by the Commission. If we believe that further involvement by the Commission should be in the form of prior approval, we would so inform the committee and possibly include suggested legislation. We plan to have the results of our review available for the committee by the beginning of the next legislative session" That report was a 10 to 3 report. Those of us who signed the Majority "Ought Not to Pass" Report did so on the basis of this letter recognizing the fact that they are going to look into it and get back to us.

I think it would be bad timing on our part to do anything legislatively at this point in time.

One of the things about significant or prior approval is that it is interesting to note that naturally legislation of this kind would be forthcoming because of the issue at Seabrook but, in 1973, the Commission felt at that time that it was a very, very good investment saver. Not only that, in 1979, recommended further investment of Seabrook so I am sure we have all learned a hard lesson by this and possibly there will be some legislation next year so I would hope that you would support the position of the majority of the committee, which is "Ought Not to Pass."

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Majority Report, we were satisfied that the Public Utilities Commission had provided us assurance that they would examine these questions in depth and report to us or bring us their recommendations. We also did not feel that the PUC was initiating policy but that public policy still remains in the hands of the utility committee and that we were waiting for the judgment of the PUC itself regarding some of these matters and waiting their recommendations and that it would be premature for us to enact legislation directing them at this time.

I would urge that you accept the Majority "Ought Not to Pass" Report.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: It is fine

to have hindsight and it is very easy for us to have it but, let's face the facts, right now we hear the utilities saying that the Commissioners' gave them their blessing in Seabrook I and II. I, for one, don't exactly believe that. We can twist words around and we can twist figures and percentages around. This bill says fine, the utilities believe this, they believe that they have the blessing of these commissioners — well, let's be upfront about it and let the commission give them the blessing. That is all the bill says, that the commission approves of the actions taken by the utilities and, if the commission doesn't approve, then the utilities can't come around and say, look, we had the blessing of the commission which, in my opinion, they never had.

I hope that we vote against the Majority Report.

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

A vote of the House was taken.
74 having voted in the affirmative and 11 in the negative, the Majority "Ought Not to Pass" Report was accepted in concurrence.

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

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act to Authorize an Award System to Aid in Coyote Control" (H.P. 858) (L.D. 1217) had had the same under consideration and ask leave to report:

That they are unable to agree.

(Signed) Representative SMITH of Island Falls and Representative CONNERS of Franklin — of the House.

Senator MATTHEWS of Kennebec, Senator USHER of Cumberland, and Senator PRAY of Penobscot — of the Senate.

Committee of Conference Report was read and accepted. Sent up for concurrence.

Papers from the Senate

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" on Bill "An Act to Amend Certain Provisions of the Maine Criminal Code" (S.P. 499) (L.D. 1360)

Signed:

Senators:

CARPENTER of Aroostook
SEWALL of Lincoln
CHALMERS of Knox

Representatives:

KANE of South Portland
DRINKWATER of Belfast
LEBOWITZ of Bangor
MacBRIDE of Presque Isle
STETSON of Damariscotta
COOPER of Windham
PRIEST of Brunswick
PARADIS of Augusta
ALLEN of Washington

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

Signed:

Representative:

CARRIER of Westbrook

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

Reports were read.

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

Divided Report

Majority Report of the Committee on Business and Commerce reporting "Ought to Pass" as amended by Committee Amendment "A" (S-232) on Bill "An Act Affecting the

Statutes of Agencies within the Department of Business, Occupational and Professional Regulation" (S.P. 556) (L.D. 1502)

Signed:

Senators:

SEWALL of Lincoln
DANTON of York
BUSTIN of Kennebec

Representatives:

BRANNIGAN of Portland
HILLOCK of Gorham
ARMSTRONG of Wilton
TELOW of Lewiston
MARTIN of Van Buren
BAKER of Orrington
ALIBERTI of Lewiston
RYDELL of Brunswick

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-233) on same Bill.

Signed:

Representatives:

MURRAY of Bangor
STEVENS of Bangor

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-232)

Reports were read.

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

Committee Amendment "A" (S-232) was read and adopted and the Bill assigned for second reading later in today's session.

Consent Calendar

First Day

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

(S.P. 500) (L.D. 1361) Bill "An Act to Amend Judicial Certification Procedures" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-239)

(S.P. 618) (L.D. 1629) Bill "An Act Relating to Cumberland County Budget Process" Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-237)

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.

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

Orders

On motion of Representative CARTER of Winslow, the following Joint Order: (H.P. 1142) ORDERED, The Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a Bill entitled "An Act Authorizing Bond Issue in the Amount of \$3,000,000 for the Clean-up and Restoration of Oil Contaminated Ground Water and Well Water." to the House.

Was read and passed and sent up for concurrence.

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

Passed to Be Enacted

An Act to Clarify Recoverable Costs in Civil Actions (S.P. 277) (L.D. 735) (C. "A" S-233)

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.

Later Today Assigned

An Act to Amend the Law Relating to Deputy Sheriffs, Appointments and Removal (S.P. 312) (L.D. 801) (Conf. Com. "A" H-351)

Was reported by the Committee on Engrossed

Bills as truly and strictly engrossed.

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

Later Today Assigned

An Act to Implement the Recommendations of the Maine Land and Water Resources Council Ground Water Review Policy Committee (S.P. 353) (L.D. 961) (S. "A" S-213; H. "A" H-244 to C. "A" S-132)

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

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

An Act to Clarify and Improve the Laws on Education in the Unorganized Territory (S.P. 381) (L.D. 1048) (S. "A" S-234 to C. "A" S-182)

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.

An Act to Establish an Information and Referral Service for Medically Indigent Victims of Rape, Gross Sexual Misconduct, Incest or Sexual Abuse (S.P. 427) (L.D. 1184) (C. "A" S-225)

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. I would like to have a brief explanation as to what this bill does. Are we paying for abortions? That is the question I have.

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

The Chair recognizes the Representative from Portland, Representative Nelson.

Representative NELSON: Mr. Speaker, Men and Women of the House: The answer to that question is no.

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

An Act to Establish the State Employee Assistance Program (S.P. 501) (L.D. 1362) (S. "A" S-224 to C. "A" S-173)

An Act to Make Additional Allocations from the Alcohol Premium Fund (S.P. 505) (L.D. 1365) (C. "A" S-226)

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.

Later Today Assigned

An Act to Authorize a Self-liquidating Bond Issue for the County of Cumberland to Raise Funds for the Construction of a Courthouse Addition, Capital Improvements to the Existing Structure and a Related Parking Facility (S.P. 547) (L.D. 1460) (S. "B" S-241 to C. "A" S-160)

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

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

An Act to Adopt the Uniform Conservation Easement Act (S.P. 626) (L.D. 1640)

An Act to Control Acid Rain (H.P. 263) (L.D. 317) (H. "B" H-350 to C. "A" H-273)

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.

Later Today Assigned

An Act to Amend the Election Laws (H.P. 274) (L.D. 344) (H. "C" H-332 to C. "A" H-214)

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

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

An Act to Provide Funding for the Maine State Housing Authority H.O.M.E. Program and Adjust the Real Estate Transfer Tax (H.P. 736) (L.D. 1045) (H. "A" H-345)

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

Representative Jackson of Harrison requested a roll call on enactment.

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

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

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

ROLL CALL No. 166

YEAS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Bost, Boutillier, Brannigan, Brodeur, Brown, A.K.; Carrier, Carroll, Carter, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Daggett, Descoteaux, Diamond, Erwin, Gwadosky, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Jacques, Jalbert, Joseph, Lacroix, Macomber, Manning, Martin, H.C.; Mayo, McCollister, McGowan, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, O'Gara, Paradis, P.E.; Paul, Perry, Pouliot, Priest, Reeves, Richard, Ridley, Rioux, Roberts, Rotondi, Ruhlin, Rydell, Soucy, Stevens, P.; Swazey, Tamaro, Tardy, Theriault, Vose, Walker, Warren, The Speaker.

NAYS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Brown, D.N.; Cahill, Callahan, Connors, Davis, Dellert, Dexter, Dillenback, Drinkwater, Duffy, Farnum, Foss, Foster, Greenlaw, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Kimball, Lander, Law, Lawrence, Lebowitz, Lord, MacBride, Masterman, Matthews, McHenry, McPherson, Murphy, E.M.; Murphy, T.W.; Nicholson, Nickerson, Paradis, E.J.; Parent, Pines, Rice, Salisbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Telow, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkililton.

ABSENT:—Kane, Lisnik, Michael, Racine, Randall, Rolde, Simpson, Taylor.

76 having voted in the affirmative and 67 in the negative with 8 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Later Today Assigned

An Act to Revise the Maine Securities Act (H.P. 1022) (L.D. 1500) (C. "A" H-333)

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

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

Later Today Assigned

An Act Concerning Nomination Petitions for Unenrolled Candidates (H.P. 1063) (L.D. 1542)

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

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

An Act Concerning the Forest Resources of Maine (H.P. 1069) (L.D. 1550) (S. "A" S-231 to C. "A" H-318; S. "B" S-240)

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.

Resolve, Authorizing and Directing the Maine State Housing Authority to Study and Report on Current Practices Relating to Enforcement of Safe and Habitable Conditions in Rental Housing (S.P. 313) (L.D. 802) (H. "A" H-346) to C. "A" S-186)

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

On motion of Representative Smith of Island Falls, the House reconsidered its action whereby it accepted the Committee of Conference Report: Bill "An Act to Authorize an Award System to Aid in Coyote Control" (H.P. 858) (L.D. 1217).

On further motion of the same Representative, the House rejected the Committee of Conference Report.

On further motion of the same Representative, the House voted for a second Committee of Conference Report.

Sent up for concurrence.

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

Papers from the Senate

Bill "An Act Concerning the Court Mediation Service and the Conduct of Mediation" (S.P. 597) (L.D. 1566)

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 Judiciary.)

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

Non-Concurrent Matter

Joint Resolution Praising the Government of the Republic of Ireland for its Efforts to Help the Minority and Majority Populations in Northern Ireland Achieve Peace (H.P. 1083) which was Read and Adopted in the House on May 23, 1985.

Came from the Senate, Failing of Adoption in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Staggered 4-year Terms for Senators" (S.P. 394) (L.D. 1093) on which the Minority "Ought Not to Pass" Report of the Committee on State Government was Read and Accepted in the House on May 23, 1985.

Came from the Senate, with that Body having Insisted on its former action whereby the Majority "Ought to Pass" Report of the Committee on State Government was Read and Accepted and the Bill Passed to be Engrossed and Asked for a Committee of Conference.

On motion of Representative Gwadosky of Fairfield, the House insisted and joined in a Committee of Conference.

The SPEAKER: The Chair will appoint as conferees:

Representative Gwadosky of Fairfield
Representative Martin of Eagle Lake
Representative Murphy of Kennebunk

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

Consent Calendar

Second Day

In accordance with House Rule 49, the

following item appeared on the Consent Calendar for the Second Day:

(H.P. 773) (L.D. 1094) Bill "An Act to Regulate Membership Camping" (C. "A" H-356)

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.

(Off Record Remarks)

On motion of Representative Swazey of Bucksport.

Recessed until three o'clock in the afternoon.

(After Recess) 3:00 p.m.

The House was called to order by the Speaker.

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

Consent Calendar

First Day

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

(H.P. 472) (L.D. 675) Bill "An Act to Make Supplemental Allocations from the Federal Expenditure Fund for the Fiscal Years Ending June 30, 1986 and June 30, 1987" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-359)

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

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

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

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

Consent Calendar

Second Day

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

(S.P. 500) (L.D. 1361) Bill "An Act to Amend Judicial Certification Procedures" (C. "A" S-239)

(S.P. 618) (L.D. 1629) Bill "An Act Relating to Cumberland County Budget Process" (C. "A" S-237)

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.

Passed to Be Engrossed

Bill "An Act to Amend Certain Provision of the Maine Criminal Code" (S.P. 499) (L.D. 1360)

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

As Amended

Bill "An Act Affecting the Statutes of Agencies within the Department of Business, Occupational and Professional Regulation" (S.P. 556) (L.D. 1502) (C. "A" S-232)

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

On motion of Representative Murray of Bangor, the House reconsidered its action whereby the Majority "Ought to Pass" Report as amended by Committee Amendment "A" (S-232) was accepted.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: The bill before us was a Divided Report and I apologize for not seeing it this morning. Both reports are very similar except for one measure and that deals with a section which is included in the Majority Report which would establish a board of registration for dietitians. ... You may remember this issue was before us earlier in the session which dealt with a licensing board for dietitians, and this particular amendment, through the Majority Report, would create a board which would register dietitians, and place this board within the Department of Business and Occupational Licensing.

I would just like to say that I think that the Board of Dietitians, whether it be registration or licensure, these professional dietitians, have not demonstrated to us adequately the public danger that is involved in trying to license the profession before it ought to be. The issue was debated, when we discussed the bill earlier with regard to licensure and I think if we are going to consider registration of dietitians, it ought to be considered separate from an omnibus bill such as this. I would hope that you would support the Minority Report and oppose the pending motion so if the profession of dietitians truly deserve the registration, that we deal with it separately and, therefore, I would ask for a Division and I would hope that you would vote against the pending motion.

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

Representative STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: I also would like to echo the sentiments of the Representative from Bangor and remind the group that they have had an opportunity to consider this issue once this year so far. To me, the most glaring defect in this omnibus bill to tack on registration of dietitians, is the definition and the qualifications of the dietitians, are not something that was drafted by the Committee on Business and Commerce or the State of Maine but they elected verbatim from the National Trade Association so the National Trade Association of Dietitians will be setting the standards to be registered in the State of Maine.

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

Representative TELOW: Mr. Speaker, Ladies and Gentlemen of the House: Very seldom do I arise but I have to on this occasion because I was the cosponsor of the original bill.

I would just like to read a few remarks for you. I will try to keep it brief. The amendment sets up the registration board with two public members located within the Department of Business, Occupational and Professional Regulation and the registration not a licensing requirement. This process was developed by Commissioner DeVane at the request of several members of the Business and Commerce Committee. As written, the registration process eliminates the problems mentioned by the opponents of licensing while providing a useful and necessary public purpose. Registration serves to provide the public with information, and knowledge those who will hold themselves out to be dietitians have, indeed, received training and education as dietitians. If we see increasing examples of the public harm by others, then we can upgrade the registration to licensing. Registered dietitians, will have to meet certain standards of training and education or the equivalence as determined by the board. There are no exemptions from the registration. Only those using the title 'dietitian' must register. A tighter definition of dietetics is included. Registration does not interfere with any person's business or practice

unless they falsely call themselves a dietitian.

One of the most important things that this amendment does is to establish a legal definition of dietetics in Maine. There is no such practice now, meaning that geologist can legally call themselves a dietitian, while neither I nor anyone else not trained, can call myself a geologist. The integrity of the profession is protected by having a legal definition. We have health care regulations that cannot deal with the diet and nutrition because of this lack of legal definition.

At the time when I cosponsored the bill, I was asked by several people from the Lewiston-Auburn area to cosponsor it.

Finally, I would just like to say this, points to make in supporting the registration of dietitians, supported by the doctors including the state Director of the Maine Diabetes Control Project, hospital administrators, educators, and consumers supported by nursing home administrators and staff. Dietitians are trained and educated to provide information and counseling on a proper diet to sick people, the elderly and others. Many people today don't know what to believe from all they hear and read about quick-fix pills, starvation diets and other schemes. Knowing about registered dietitians will help people. Dietitians works with pregnant women, undernourished children, sick patients coming home earlier than ever from hospitals and others.

Finally, let's say that I am supporting this amendment.

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

Representative BRANNIGAN: Mr. Speaker, Men and Women of the House: I hope you will support the motion that I made this morning in the 12 to 2 report from our committee on this bill and not reject that section of it that deals with dietitians. We have tried to take care of some of the objections that were made regarding the dietitians being licensed. Registration seemed to be a middle course and I believe that the very fact that there is a definition for these people, as I say again, we move from the hospital to the community more and more with health people working in the community. Those who are truly dietitians need to be identifiable and this would do it so I ask you to support the motion to pass this bill.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion to accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

86 having voted in the affirmative and 26 in the negative, the Majority "Ought to Pass" Report as amended was accepted, the Bill was passed to be engrossed as amended in concurrence.

The Chair laid before the House the following matter: Bill "An Act to Amend the Probate Code to Improve Guardianship and Conservatorship Proceedings" (S.P. 218) (LD. 577) (C. "A" S-176) which was tabled earlier in the day and later today assigned pending the motion to indefinitely postpone bill and all accompanying papers.

Representative Stetson of Damariscotta withdrew his motion to indefinitely postpone.

On motion of Representative Allen of Washington, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-176) was adopted.

The same Representative offered House Amendment (H-361) to Committee Amendment "A" (S-176) and moved its adoption.

House Amendment "A" (H-361) to Committee Amendment "A" (S-176) was read by the Clerk.

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

Representative MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will accept this amendment today for it is a compromise measure that has been made since the committee report came out. I know that is an unusual situation but, in this case, some of us who are on the "Ought Not to Pass" Report, I think, we're concerned because of the intent of the bill and some of those who are on the "Ought to Pass" Report were concerned because of the expense of the bill so we did keep right on working even though we had signed the bill out.

When this bill was presented for a hearing, I had many problems with it because of the cost to the counties, because of the mandated requirements and because it was based on a report of the Legal Services for the Elderly Incorporated that contained a number of inaccuracies. However, the bill was well intentioned for it was providing safeguards for the incapacitated person needing a guardian or a conservator. The committee worked hard to make this bill a really good bill but even so, I had a number of reservations concerning it and so signed it out "Ought Not to Pass." It was a 9 to 4 "Ought to Pass" Report.

I objected to the bill because it mandated a visitor, a guardian adlitem or an attorney at the hearing whether one was needed or not. The Judge of Probate in Cumberland County stated that he usually appointed a guardian in only five percent of the cases. At the other end of the state, in Aroostook County, our registrar of probate stated 95 percent of the incapacitated persons attended the hearing and didn't need a guardian. When a person couldn't attend, a guardian was appointed.

If this bill were passed, as the bill originally came out, in Cumberland County the Judge of Probate estimated it would cost the taxpayer an additional \$50,000 a year. In Aroostook, it would double the general services account, a recorder would be required and I felt that would be costly and sometimes unnecessary and a visitor was given more authority than I felt was correct. As I said, we signed the bill out and yet, the committee did keep on working on the bill. We finally did reach a compromise and this is the compromise that you have today in the amendment before you. In that amendment, the guardian adlitem, visitor or the attorney will be appointed only when the person, who is incapacitated, can't appear at the hearing or, for some reason, does not want to appear. That is cutting that cost considerably and the expenses for the guardian for that incapacitated person will be borne by the estate of that incapacitated person whenever possible. The Judge of Probate then will be allowed to judge the job for what he was really elected. He will talk to the various parties and then make his decision whether the guardian is needed or not. A visitor, if appointed, will be allowed to interview the allegedly incapacitated person and inquire if he wishes to contest the petition for a guardian and a guardian or a conservator may be required to report back to the Probate Court at the time of the initial order, at the time of the subsequent order, or as provided by the court rule.

A person nominated to serve as a conservator must file a plan with the court to show how the estate and finances of the incapacitated person will be protected but the plan need only to include pertinent information reasonably available to the guardian.

With these changes, I felt that I could accept the new draft of the bill as amended for I now feel that it is a really good bill and does protect that incapacitated person well. I urge you to support this amended form of that bill.

Whereupon, House Amendment "A" (H-361) to Committee Amendment "A" (S-176) was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted. The Bill was passed to be engrossed as

amended by Committee Amendment "A" as amended by House Amendment "A" thereto and sent up for concurrence.

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

The Chair laid before the House the following matter: SENATE REPORT — "Ought to Pass" as amended by Committee Amendment "A" (S-210) — Committee on State Government on Bill "An Act to Establish Legislative Council Oversight of Expenditures for Joint Standing Committees, Joint Select Committees and Legislative Investigating Committees" (S.P. 587) (L.D. 1544) which was tabled earlier in the day and later today assigned pending acceptance of the Committee Report.

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

Committee Amendment "A" (S-210) was read by the Clerk.

Senate Amendment "A" (S-236) to Committee Amendment "A" (S-210) was read by the Clerk and adopted.

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

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

The Chair laid before the House the following matter: Bill "An Act Concerning Coverage of Certain Trials by the Electronic Media" (H.P. 820) (L.D. 1161) (C. "A" H-275) which was tabled earlier in the day and later today assigned pending the motion to reconsider whereby the House voted to recede and concur.

Representative Gwadosky of Fairfield 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 motion of the Representative from Augusta, Representative Paradis, that the House reconsider its action whereby it voted to recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 167

YEAS:—Armstrong, Baker, A.L.; Beaulieu, Begley, Bell, Bonney, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Carrier, Chonko, Connors, Dellert, Dexter, Dillenback, Erwin, Foster, Gwadosky, Harper, Higgins, L.M.; Hillock, Holloway, Ingraham, Jalbert, Kimball, Lander, Law, Lawrence, Lord, Macomber, Manning, Masterman, Matthews, McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, T.W.; Nelson, Nickerson, Paradis, E.J.; Parent, Perry, Pines, Pouliot, Rice, Richard, Ridley, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Swazey, Webster, Wentworth, Weymouth, Whitcomb, Willey.

NAYS:—Aliberti, Allen, Baker, H.R.; Bost, Bott, Boutilier, Brannigan, Brodeur, Callahan, Carroll, Carter, Cashman, Clark, Coles, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Descoteaux, Diamond, Drinkwater, Duffy, Farnum, Foss, Greenlaw, Hale, Handy, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Hoglund, Jackson, Jacques, Joseph, Lacroix, Lebowitz, Lisnik, MacBride, Martin, H.C.; Mayo, McGowan, Melendy, Mills, Mitchell, Murphy, E.M.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nicholson, O'Gara, Paradis, P.E.; Paul, Priest, Reeves, Roberts, Rotondi, Ruhlin,

Rydell, Simpson, Stevens, P.; Tamarro, Tardy, Telow, Theriault, Vose, Walker, Warren, Zirkilton.

ABSENT:—Connolly, Kane, McCollister, Michael, Racine, Randall, Rioux, Rolde, Small, Taylor, The Speaker.

68 having voted in the affirmative and 72 in the negative with 11 being absent, the motion did not prevail.

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

Representative CONNOLLY: I wish to be recorded as no.

The SPEAKER: The Chair would advise the Representative that it will be shown in the Record but it will not change the vote total.

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

Consent Calendar

First Day

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

(H.P. 617) (L.D. 887) Bill "An Act to Establish Special Motor Vehicle License Plates for Firefighters" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-362)

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

(H.P. 779) (L.D. 1100) Bill "An Act to Amend the Charter of the Bingham Water District" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-363)

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

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Diamond of Bangor, the following was removed from the Tabled and Unassigned matters:

Bill "An Act to Amend the Charter of the Winthrop Water District" (Emergency) (H.P. 1114) (L.D. 1624)

— In House, referred to Committee on Utilities on May 28, 1985.

— In Senate, Passed to be Engrossed without reference to a Committee in non-concurrence on May 29, 1985.

— In House, House receded on May 30, 1985.

TABLED — May 31, 1985 by Representative Diamond of Bangor.

PENDING — Further Consideration.

Representative Vose of Eastport offered House Amendment "A" (H-364) and moved its adoption.

House Amendment "A" (H-364) was read by the Clerk and adopted.

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

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Diamond of Bangor, the following was removed from the Tabled and Unassigned matters:

Bill "An Act Increasing the Authorized Indebtedness of Veazie Sewer District" (Emergency) (H.P. 1115) (L.D. 1625)

— In House, referred to Committee on Utilities on May 28, 1985.

— In Senate, Passed to be Engrossed without reference to a Committee in non-concurrence on May 29, 1985

— In House, House receded on May 30, 1985.

TABLED — May 31, 1985 by Representative Diamond of Bangor.

PENDING — Further consideration.

Representative Vose of Eastport offered House Amendment "A" (H-365) and moved its adoption.

House Amendment "A" (H-365) was read by the Clerk and adopted.

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

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Diamond of Bangor, the following was removed from the Tabled and Unassigned matters:

Bill "An Act to Extend the Boundaries of the Gray Water District to Include the Entire Town" (H.P. 1113) (L.D. 1623)

— In House, referred to Committee on Utilities on May 28, 1985.

— In Senate, Passed to be Engrossed without reference to a Committee in non-concurrence on May 29, 1985.

— In House, House receded on May 30, 1985.

TABLED — May 31, 1985 by Representative Diamond of Bangor.

PENDING — Further consideration.

Representative Vose of Eastport offered House Amendment "A" (H-366) and moved its adoption.

House Amendment "A" (H-366) was read by the Clerk and adopted.

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

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Diamond of Bangor, the following was removed from the Tabled and Unassigned matters:

Bill "An Act to Implement Teacher Recognition Grants and Establish a Minimum Salary for Teachers" (H.P. 1087) (L.D. 1580)

— In House, referred to the Committee on Education on May 24, 1985.

— In Senate, Passed to be Engrossed without reference to a committee in non-concurrence.

TABLED — May 29, 1985 by Representative Diamond of Bangor.

PENDING — Further consideration.

On motion of Representative Brown of Gorham, the House voted to adhere whereby the Bill was referred to the Committee on Education. Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Matter Pending Ruling

Bill "An Act to Amend the Provisions Governing the Conversion of a Mutual Insurer" (Emergency) (H.P. 1024) (L.D. 1476) (C. "A" H-279)

TABLED — June 4, 1985 by Speaker MARTIN of Eagle Lake.

PENDING — Ruling of the Chair on Conflict of Interest pursuant to House Rule 19 and Joint Rule 10.

The SPEAKER: In response to the question posed by the Representative from Bangor, Representative Stevens, the Chair would advise the members of the House, first, the provisions of 1 MRSA, Section 1014, Subsection 1, Paragraph A require that, "the Legislator's interests be an enterprise which would be financially benefited by the proposed legislation". It appears that the provision of L.D. 1476 do not "financially benefit" the "enterprise" the mutual insurance company. All the bill does is establish procedures and standards for review and approval of proposed action. It does not provide tax benefits or exemptions, financial assistance or relief, or exemptions from statutory limitations that could be construed to "financially benefit" the insurance company.

Second, it seems clear that the required "direct substantial personal financial interest" of a legislator in a mutual insurance company also does not exist, certainly to the extent of the legislator's interest in a mutual insurance company through a group plan, it is not direct. The owners of a group plan are the person in whose name a master policy is held. The provisions of the Committee Amendment (H-279), Section 4, recognizes this fact. Thus, any legislator who has a policy in a mutual company through a group plan could not be found to have a direct interest.

The indirect provision of the paragraph, that is of the closed economic association, would apparently apply to a group plan member. However, it again appears that a group plan member would not derive direct substantial personal financial benefit from that association.

The bill establishes the procedure and standards and confers no direct financial benefit to the group plan. Even if the legislator were to own a mutual insurance policy individually, in most instances, it would appear that that interest may not be substantial. So, though the interpretation of the word substantial is sparse, it would appear that for an interest to be substantial in this context it would require a normal insurance investment. Many, if not all legislators, may carry insurance policies in mutual companies and in addition insurance companies issue millions of dollars in policies. In order to apply the principles and purposes of conflict of interest Statutes 1 MRSA, Section 1011, and to properly protect the public interest in having legislator's actively represent their constituents, wholesale disqualification of legislators should be avoided. Thus, in applying the standard of the word substantial, the financial interests would have to be unusually significant. However, this point would have to be decided on the merits in each individual case. The number and size of the policies held by an individual legislator would determine if that legislator's interest was substantial.

One final issue remains, that of the legislators who are insurance agents and who sell mutual insurance company policies. The Section of 1 MRSA, Section 1014, Subsection 1, Paragraph F, establishes the conflict of interest provisions for "professions, trade businesses or employment." Again, it would seem clear that the bill does not create any benefits to such legislators. However, even if it could be argued to do so, a legislator clearly would have no interest "unique and distinct from that of persons engaged in similar professions, trades, businesses or employment." Thus, it appears clear that the situation presents no conflict of interest pursuant to law, for legislators who own individual or group policies in mutual insurance companies, nor does it appear to create a conflict for insurance brokers who are legislators.

The Chair would rule, therefore, that the members of this body are allowed to vote pursuant to this matter.

On motion of Representative Baker of Orrington, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-279) was adopted.

The same Representative offered House Amendment "C" (H-358) to Committee Amendment "A" (H-279) and moved its adoption.

House Amendment "C" (H-358) to Committee Amendment "A" (H-279) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Baker.

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 1476 concerns the procedures by which an insurance company converts from mutual ownership, that is ownership by the policyholders, to stock ownership where shares are issued and trad-

ed usually in the open market. There are advantages for both forms of ownership, but stock ownership apparently offers many attractions for current managements as we have seen in the case of several of our Maine savings banks which have converted from mutual to stock companies recently.

If you are a holder in one of those banks, you know there is no benefit at all to those with accounts in those banks. Yet, the ongoing businesses which emerged are worth millions. That doesn't seem very fair. Fortunately, in the case of mutual insurance companies, there is law and precedence that suggest those companies are owned by the policyholders.

As you know, the management of our largest Maine mutual insurance company, Union Mutual, now wishes to convert that company from mutual to stock ownership. This proposal would be the largest financial transaction that has ever taken place in the State of Maine. Union Mutual had total income of \$1.778 billion in 1984. From this huge activity, there was a profit of \$74 million after taxes.

So, you can see we are talking about huge amounts of money. Union Mutual is, I believe, the 30th largest insurance company in the country. So, the eyes of the financial and insurance communities are focused on Maine as we work our way through the process. If Union Mutual successfully accomplishes this conversion, you can imagine that Mutual of New York and the other biggies won't be too far behind in talking to their own superintendents of insurance about a similar move.

Some of the major issues in any conversion are, (1) to define which policyholders are eligible to participate in that decision and; (2) how to calculate the share of the company that these policyholders own; (3) how to distribute in some combination of stock and cash that share to those policyholders in some equitable arrangement; (4) how to arrange all these variables so there is a healthy and viable company left to continue in business after all this has been done so they can continue to pay the insurance policies that are on the books; (5) who plays God in making all these decisions? Fortunately for Union Mutual and ourselves, previous legislatures have anticipated many of these questions and have provided guidelines in our statutes, but the thrust of these statutes was to protect the policyholders in a failing or troubled business. Nobody ever envisioned the day when we would be facing the conversion of a healthy company of such magnitude as Union Mutual.

L.D. 1476 assures that policholders will not forfeit any of their ownership should they elect to take a portion of calculated shares of the ownership in cash. That is only fair and rectifies a glaring fault in the existing statutes.

A second provision in L.D. 1476 is that the insurer, in this case Union Mutual, should bear the costs incurred by our insurance department in hiring experts to assist them in playing God, in making the many decisions involved in this demutualization process. The company will file a plan, which they have spent an estimated \$10 million preparing and promoting.

Our insurance department does not have a staff of accountants and actuaries which they can turn loose and go over all these documents. It is not fair that other insurance companies, whose fees pay for the insurance department, should pay the costs involved to examine this one special application nor should the taxpayers. Union Mutual management has agreed; hence the bill before you today. My continuing concern in this whole process is, who is looking out for the policyholders who really own this business? The opponents of my amendment would say that the superintendent of insurance will do that job. My answer is that he is representing the State of Maine in this process and he has many constituencies, the companies, the employees, the policyholders, the City of Portland and most importantly, the

holders of their existing insurance policies to make sure there is a healthy and ongoing business to service those policies.

There is nobody looking out solely for the policyholders as owners of this business, as the situation stands today. Shouldn't there be room for an objective point of view for someone who looked at the deal that is finally negotiated by the experts and will convey that information to the policyholders as their rights and their options?

During the preliminary rounds to this main event, Union Mutual has consistently denied access to their policyholder lists. Dissenting voices have been shut down entirely. The order with which they are opposing my amendment only stimulates the question, what is wrong with open and frank discussion with policyholders? What are they afraid of?

Because this bill was one of the last reported out by our committee, there was no opportunity to adequately discuss this issue in committee. For that reason, I now propose House Amendment "C" that would have the superintendent of insurance appoint from his own staff or the public an intervenor to act on behalf of the policyholder owners. Before the hearing, this intervenor would let the policyholders know of his appointment, he would represent those owners at the hearing and would advise the policyholder owners of the alternatives available to them after the decision has been taken and further he would advise them of the implications of those alternatives.

To address the concerns of the company, this amendment provides that all mailings will be made by the company itself so that their policyholder list never become public property. Second, the cost of this intervenor is included in the budget being provided through the department under this bill.

Ladies and gentlemen, there are millions of dollars involved in this proposed demutualization. After the legislature has adjourned, who is going to look out for policyholder owners?

I urge your acceptance of this amendment. I request a roll call.

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

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

When this bill was drawn up, it was drawn up very carefully by the Bureau of Insurance, by its sponsor, Representative Murray, and by the committee. The law that governs the demutualization of an insurance company was put on the books by this legislature back in 1970. Because there was a plan of conversion already filed last December, it was felt by the Bureau of Insurance and the sponsor in committee, that we should do as little as possible in dealing with that law while this conversion was under way. However, there were some changes that needed to be made. We did need to deal with foreign policyholders we don't want to have to set up security distribution in foreign countries like Iran. We had to clarify some voting procedures, old charters versus the statutes put in the books in 1970. That was done.

We also adjusted the way the surplus was to be divided to some degree. All very carefully drawn.

Lastly, we set into statute an agreement that the insurance company, in this case the one that is underway, Union Mutual, would pay all the costs of having this whole process overseen, examined, looked out for, all the costs, not only the costs that are being incurred outside the department, but the costs within the department's own staff itself.

The Bureau of Insurance has already engaged an actuarial firm, a legal firm and an accounting firm. Those groups are now being put

in place to examine this entire matter. This matter is going on between some of the policyholders and the Union Mutual Company. It is my belief that the policyholders will be well served by the Bureau of Insurance and this whole group of people that will be guiding them and directing them. I believe that the cost that will be passed on will be tremendous but they have been agreed upon and actually set into statute.

The present amendment before you would add extra costs, an extra layer. It has no provision on it as some of the previous drafted amendments did for capping those costs. I would say that the whole group of things that this bill represents has the unanimous support of our committee, including the gentleman from Orrington, who just offered this amendment. At the time he wished to go with an "Ought Not to Pass" because he wished to add at that time an amendment dealing with the distribution of surplus which the committee did not feel they wanted to go along with. His real concern, I am sure, is for the policyholders. However, I do believe that everything we have set in place is sufficient for this to go forward. There is no need to disrupt this process anymore and I would urge you to support my motion to indefinitely postpone.

Representative Baker of Orrington requested a roll call vote on the motion to indefinitely postpone.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I am a cosponsor on this bill and I rise today to support the amendment before you. As Representative Brannigan has described, there were several changes which were made by the committee. The committee did give very careful consideration to this bill. I believe that there was one provision that we did not have the time to adequately discuss in committee and that is the independent interest of the policyholder owners.

As Representative Baker has explained to you, Union Mutual is spending \$10 million to promote the companies proposal for demutualization. This change in the status of a very large company will affect every policyholder owner. These people, many of whom are your constituents and mine, will have no independent source of information on the demutualization process. I am concerned about protecting the interests of these policyholder owners and I feel that it is appropriate that in a change of such magnitude and one on which so much money is going to be spent, it is appropriate that an independent intervenor be authorized, whose sole assignment is to protect the interests of the policyholder owners.

The superintendent of insurance will be overseeing the entire demutualization process. The intervenor provided for in the amendment will represent the interests of and provide information to the policyholder owners. I believe this provision is in the best interests of the policyholder owners and of the entire demutualization process. I believe it will help to ensure that the process is completed in a fair and equitable manner for all parties.

I would urge your support for this amendment that gives a voice to the policyholders owners in the conversion of a large mutual company to a stock company. Please vote to support the amendment before you.

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

Representative MURRAY: Mr. Speaker, Men and Women of the House: First of all, I would say that I respect the gentleman from Orrington's efforts to protect the policyholders in this whole process, which is a very new process but I think that those interests are taken care of, not only with present statute, but also

with the bill that was drafted by the large majority of the Business and Commerce Committee. I think there are basically two problems with the amendment that has been offered. One has been mentioned that we have not capped the amount of money that this intervenor could use in doing whatever the duty is that is set aside or established for him.

We set aside in the bill itself that the cost incurred by the superintendent of insurance would be covered by that company that is going through the demutualization process and I think that is proper. But I think to add another layer in that process and simply to add all those costs on top of that to the insurance company is somewhat unnecessary.

Secondly, and perhaps more importantly, the gentleman in talking about the interest of the policyholder seemed to imply that that interest is that the policyholders have a monolithic sort of interest. I think it would be difficult to establish a position, an intervenor position, for the policyholders and charge that person with recognizing and supporting the policyholders interests. Obviously, some policyholders are going to feel one way about this conversion, others are going to feel another way. There will be those that support it, those that oppose it, those that have questions and to charge one person with representing the entire interests of all the policyholders, I don't think, is realistic. I think what we do and what we have done with the bill and also the present law is charge the superintendent of insurance with taking the responsibility of looking out for the policyholders interests to see that these are considered to make sure that the conversion goes smoothly.

Finally, the most important thing is that any notice involving this whole process must be given already to these policyholders. Once a plan is approved by the bureau, that plan that is approved, has to be approved by two-thirds of all the policyholders. So, I think the policyholders are given adequate protection, their considerations will be taken into account and I think what the amendment does is it simply adds another layer of perhaps overkill which I don't think is necessary.

I would hope you would support the motion to indefinitely postpone this amendment.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: My concern is the intervenor will be paid for by the insurance company. Now just think of that implication.

Secondly, who do we pay to oversee the rules and regulations of the insured? We have a person that is the head of that department that we can hold directly responsible for any kind of action. The superintendent of insurance is that person. We can go to him, we can ask him to be responsible. The intervenor has just a role that would be minor. That is concern one.

Concern two is a successful company that wants to be competitive, one of the most successful insurance companies in the United States based right here in the State of Maine. I would like to see that company continue its status as a responsible, respected insurance company. I don't think we ought to stand in its way of this expansion.

We are setting a precedent also, number three. There will be others falling in line to demutualize and become stock companies. I think we ought to set a real viable encouraging example by going along with the cautious approach that we took in committee.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: What we are deciding today is probably one of the more complex issues we have and certainly has high

stakes involved here.

Union Mutual is one of the most successful national insurance companies in this country and we are very fortunate to have them in the State of Maine. They employ over 2,500 people in the State of Maine.

This demutualization process is unique in the fact of its size and complexity. There is approximately \$274 million that is going to be distributed as a windfall to all the policyholders of Union Mutual and that is great.

I talked to the superintendent of insurance today and advised him of this amendment. I said, "well, can you tell me how many other demutualization operations in the country have involved an intervenor?" He said, "there is one in the State of Washington." I said, "what was his function?" He said, "well, its to protect the policyholders." I said, "is it similar to this?" He said, "well, it is black and white, that company was going through bankruptcy and they were lucky to get five cents on the dollar."

This is quite the different case, ladies and gentlemen. Union Mutual has proven itself as a leader in the industry, have made large profits in a time that other insurance companies are struggling. By that leadership and management, they can certainly show you that they are protecting their interests of the policyholders and certainly the value that they have given these policyholders.

In an operation like this, the FCC is certainly involved in conversion to a stock company. The State's Securities Commission is going to have a say. The superintendent of insurance is overseeing the whole operation and their minimum budget that Union Mutual is giving them out of their own treasury is over \$300,000. By talking to the representatives of superintendent of insurance, they are certainly watching the interest of this conversion and through the eyes of the policyholder. Why else would they be doing it, because they are all tied in together. The viability of this company is the policyholder and the stockholders. It is a very complex issue but I think we are trying to make something out of this that is really not there. We have changed the law for the better and I think we have done it through a lot of research and it has protected the policyholders by doing that.

I think there is something more here and it may breed on holding back the process which could be very extensive and detrimental to the policyholders that we are supposedly trying to protect by this amendment.

I urge you to vote indefinite postponement of Amendment "C" so we can get on with this process and show the State of Maine as well as the other companies in the United States that we are receptive to the problems they have and we are willing to work with business and industry.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Baker.

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong this debate but I would like to correct one of the statements that was made by the previous speaker, my good friend from Gorham. There will not be \$276 million distributed. Please don't let that figure land in your mind. The \$276 million is a statutory surplus, actually, it is \$267 million that allegedly will be used to calculate the amount of money that will be distributed, but the combination would be in cash and stock so it would not be all of this figure that would be distributed.

Second, I would like to speak to the suggestion that this intervenor would be a layering of the process. I don't see it as that at all. I see it as a part of the process of monitoring this conversion. I see it as a particularly important process because the policyholders themselves have no way of knowing who each other is or

how to get together to perform such a service. So, this intervenor could be a lightning rod for all of the objections or questions that are put by the policyholders.

So, with that, I would urge that you defeat the motion so we can go on to accept this amendment.

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

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: We talk of the large numbers of monies to be distributed, what I meant by that is that it would be distributed in neither stock or cash, the option will be there by statute. The stock can be sold the next day and the money is there. Union Mutual is offering the opportunity to participate in a very going concern here. So, this money will be distributed to the policyholders in the company.

I would like to reiterate the company has always cooperated albeit they must protect the privacy of the policyholders. They did distribute information when they had a recent board election and the result of that was that only three percent of the concerned policyholders were descending to try to put someone on the board and they represented ten percent of the weighted voting. So, we are not talking about the vast amount of people.

I have talked to the people at Union Mutual and they will cooperate to send out information to the policyholders but they must maintain by law the confidentiality of the policies, so they are cooperating.

Again, I urge you to indefinitely postpone this amendment "C".

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 obviously more than one-fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Brannigan of Portland that House Amendment "C" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 168

YEAS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Bell, Bonney, Boutilier, Bragg, Brannigan, Brodeur, Brown, A.K.; Cahill, Callahan, Carrier, Carroll, Cashman, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Descoteaux, Diamond, Dillenback, Drinkwater, Duffy, Erwin, Foss, Gwadnosky, Hale, Handy, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Hoglund, Holloway, Jackson, Jacques, Jalbert, Kimball, Lacroix, Lawrence, Lord, Macomber, Manning, Martin, H.C. Masterman, Matthews, Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, P.E.; Paul, Perry, Pouliot, Reeves, Rice, Richard, Ridley, Roberts, Salsbury, Scarpino, Seavey, Simpson, Smith, C.B.; Soucy, Stelson, Stevens, A.G.; Stevenson, Swazey, Tammara, Tardy, Taylor, Telow, Vose, Walker, Warren, Webster, Weymouth, Whitcomb, Zirkilton.

NAYS:—Armstrong, Baker, A.L.; Begley, Bost, Bott, Brown, D.N.; Carter, Connors, Dellert, Dexter, Farnum, Foster, Harper, Ingraham, Joseph, Lander, Law, Lebowitz, Lisnik, MacBride, McCollister, Paradis, E.J.; Parent, Pines, Priest, Rotondi, Ruhlin, Rydell, Sherburne, Smith, C.W.; Sproul, Stevens, P.; Strout, Theriault, Wentworth, Willey.

ABSENT:—Greenlaw, Higgins, H.C.; Kane, Racine, Randall, Rioux, Rolde, Small, The Speaker.

106 having voted in the affirmative and 36 in the negative with 9 being absent, the motion did prevail.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-279) and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following item: An Act to Amend the Law Relating to Deputy Sheriffs, Appointments and Removal (S.P. 312) (L.D. 801) (Conf. Com. "A" H-351) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following item: An Act to Implement the Recommendations of the Maine Land and Water Resources Council Ground Water Reveiw Policy Committee (S.P. 353) (L.D. 961) (S. "A" S-213; H. "A" H-244 to C. "A" S-132) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Michaud of Medway, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-132) as amended by House Amendment "A" (H-244) thereto was adopted.

The same Representative offered House Amendment "B" (H-367) to Committee Amendment "A" (S-132) and moved its adoption.

House Amendment "B" (H-367) to Committee Amendment "A" (S-132) 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 it eliminates part of the bill which would require sand and salt piles to be covered by 1991. It was a unanimous report from the committee but it was contingent upon a bond issue. The Governor's Office did not put that bond issue in. It is my understanding it will be in next time. So, this amendment will take care of that.

Thereupon, House Amendment "B" (H-367) to Committee Amendment "A" (S-132) was adopted.

Committee Amendment "A" (S-132) as amended by House Amendment "A" (H-244) and "B" (H-367) thereto was adopted.

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

The Chair laid before the House the following item: An Act to Authorize a Self-liquidating Bond Issue for the County of Cumberland to Raise Funds for the Construction of a Courthouse Addition, Capital Improvements to the Existing Structure and a Related Parking Facility (S.P. 547) (L.D. 1460) (S. "B" S-241 to C. "A" S-160) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The issue that we have here before us today has been amended to reflect a fiscal note which reads in part, that if this bond issue is ratified by the voters of Cumberland County, this will require a

substantial expenditure of additional funds by the courts or the general fund to lease these facilities. The language in the Bill makes it mandatory that the court facilities be leased.

I have nothing against the building of courts in the state but I think that this is a backdoor approach in trying to get around an issue that has just been recently voted down by the citizens of this state. I think if we are going to build courts, we should be up front.

With that in mind, I will move the indefinite postponement of this Bill and all its accompanying papers and ask for the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Cooper.

Representative COOPER: Mr. Speaker, Ladies and Gentlemen of the House: The bill you have before you today is a bill to build a courthouse in Cumberland County. We have already enacted this year legislation to build a courthouse in Waldo County and another courthouse in Sagadahoc County. We are simply asking that you give us the same consideration in Cumberland County and allow us to build ours there or at least put it out to referendum.

The other two bills did not have an appropriation on them. I believe they should have but they didn't, and they are gone and that is fine. We were somewhat upfront with ours and put on it that it would be, in fact, funded by the courts as the other two courthouses will be through the rents that they pay.

I would ask today that you vote for this bill, send it down to appropriations and at least give it a chance with all the other proposals before them and at least let them consider it. I would appreciate your support on this bill.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: If you build a new building, of course, your rent is going to increase. You can't help that. We need this building desperately in Cumberland. On the election when we voted, Cumberland County voted in favor of the bond issue at that time. I think it is appropriate that you support this and let things take the course that is natural.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: In addressing the concerns of the gentleman from Winslow, Representative Carter, I called earlier today and talked to the people down at the administrative court section for the district court in the State of Maine. I asked them whether or not they thought that Franklin County, which is in here with the bond issue, if that was the identical way of funding the court system or a new district court in Franklin County as Cumberland County is doing and he said yes. Franklin has done it, Waldo County has done it, Sagadahoc County has done it and Penobscot has done it so far this year. We are not asking anything different than those four other counties.

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: I understand that several people have said that this is a backdoor approach because people voted against it. This has repeatedly passed in Cumberland County. The people of Cumberland County are extremely familiar with the abysmal conditions in those courts. You have people down there who are victims of a crime, who go down to court and they are lined up like sheep next to the perpetrator of the crime. It is that or they can wait out in the parking lot. If you don't believe it, you ought to go down and see it yourself. These people are fellow citizens of

yours and they deserve better.

As far as the method by which it is done, Representative Manning has mentioned several counties that have used this method. My understanding is that Aroostook County has always used this method for their own courthouses. They have a county bond, they pay for the courthouse, then the state rents it from them. Everybody buys things the way they are done in Aroostook County, so do I. I advise you to go against this motion, please.

The SPEAKER: The Chair recognizes the Representative from Mars Hill, Representative Smith.

Representative SMITH: Mr. Speaker: Question please? I understand that there is a parking facility attached to this bond issue. Would that be for the City of Portland to pay for or would that be obligated through the court system into the general fund?

The SPEAKER: Representative Smith of Mars Hill has posed a question through the Chair to any member who may answer, if they so desire.

The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: The parking facility is a separate total individual item. It has nothing to do at all with the state. It will be a separate referendum issue. It will be two questions, one on the courthouse facility, one on the parking facility. The parking facility will be county owned/operated if that, in fact, passes. We debated that at great length in this House. Everybody wanted two separate issues, that is now what we have. The other question was one of the fiscal note. We now have the fiscal note. I would encourage you to vote against the pending motion and send this on its merry way.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Carter of Winslow that the bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 169

YEAS:—Carter, Chonko, Davis, Greenlaw, Holloway, Jacques, Lebowitz, McGowan, Michaud, Scarpino, Smith, C.B.; Smith, C.W.; Swazey

NAYS:—Aliberti, Allen, Armstrong, Baker, A.L.; Baker, H.R.; Beaulieu, Begley, Bell, Bonney, Bott, Boutilier, Bragg, Brannigan, Brodeur, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carroll, Cashman, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Farnum, Foss, Foster, Gwadlosky, Hale, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Ingraham, Jackson, Jalbert, Joseph, Kane, Kimball, Lacroix, Lander, Law, Lawrence, Lisnik, Lord, Macbride, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McCollister, McHenry, McPherson, McSweeney, Melendy, Mills, Mitchell, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perry, Pines, Pouliot, Priest, Reeves, Rice, Richard, Ridley, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Salsbury, Seavey, Sherburne, Simpson, Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Strout, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, Webster, Wentworth, Weymouth, Whitcomb, Willey,

Zirkilton

ABSENT:—Conners, Daggett, Duffy, Michael, Racine, Randall, Rioux, Small, Stevenson, The Speaker

13 having voted in the affirmative and 128 in the negative with 10 being absent, the motion did not prevail.

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

The Chair laid before the House the following item. An Act to Amend the Election Laws (H.P. 274) (L.D. 344) (H. "C" H-332 to C. "A" H-214) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative McCollister of Canton, under suspension of the Rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-214) was adopted.

The same Representative, offered House Amendment "B" (H-317) to Committee Amendment "A" (H-214) and moved its adoption.

House Amendment "B" (H-317) to Committee Amendment "A" (H-214) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Cahill.

Representative CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair: Could the good gentlemen explain House Amendment "B" please?

The SPEAKER: Representative Cahill of Woolwich has posed a question through the Chair to Representative McCollister of Canton, who may respond if he so desires.

The Chair recognizes that Representative.

Representative McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment very simply limits the charge for a voting list to the cost of reproduction.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Ladies and Gentlemen of the House: I wish to pose a question if I may to the gentlemen from Canton? I would just like to ask what the rationale is for this amendment and for reducing the cost?

The SPEAKER: Representative Bott of Orono has posed a question through the Chair to Representative McCollister of Canton, who may respond if he so desires.

The Chair recognizes the Representative.

Representative McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: It has been the opinion for many years of the Secretary of State's Office that the intent of the law has been the cost of reproduction. This has been true in the majority of our municipalities in the state, but there have been a few that have attempted to recoup the costs of maintaining the voters lists. This has never been the intent. We have a half a dozen municipalities who are charging excessive amounts of money for their voters list and I do not believe it is the intent of the people of this state to support a municipal function on the sale of voters lists.

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Cahill.

Representative CAHILL: Mr. Speaker Ladies and Gentlemen of the House: Besides what the gentlemen has said this House Amendment "B" does, as I read it, it also goes one step further. In the original amendment, it said, a copy of the voting list "may" be in computer readable form. This amendment says, a copy

of the voting list "shall" be in computer readable form. I don't think that we should be mandating to our small municipalities that they must put their voting list on a computer. Many of my towns are very, very small. Some of the voting lists are even handwritten. While it would certainly make it a lot easier for me, I think it would pose a hardship for the municipalities.

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

Representative McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: In order to answer Representative Cahill's problem, if she will continue to read that sentence—if requested and technically feasible

The SPEAKER: The Chair recognizes the Representative from Woolwich, Representative Cahill.

Representative CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I worry about the words even in the original amendment, technically feasible. I think the computer age is technically feasible for all of us and available to all of us now. I would like to have the gentlemen further explain his definition of technically feasible.

The SPEAKER: Representative Cahill of Woolwich has posed a question through the Chair to the Representative from Canton, Representative McCollister, who may respond if he so desires.

The Chair recognizes that Representative.

Representative McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: If you don't own a computer, there is no way you can reproduce your voters list on computer tape or computer paper. If you hand write your voters list or you maintain them with a typewriter, I believe this is the intent of feasible.

Representative Cahill of Woolwich requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is adoption of House Amendment "B" to Committee Amendment "A". Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 170

YEAS:—Allen, Baker, H.R.; Beaulieu, Bost, Boutilier, Brannigan, Carroll, Cashman, Chonko, Clark, Connolly, Dexter, Diamond, Duffy, Erwin, Handy, Hayden, Hickey, Higgins, H.C.; Hoglund, Jacques, Kane, Manning, Martin, H.C.; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nelson, Paradis, P.E.; Perry, Reeves, Richard, Roberts, Rolde, Ruhlin, Rydell, Simpson, Soucy, Swazey, Tardy, Vose, Walker, Warren, The Speaker

NAYS:—Aliberti, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Brodeur, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carter, Coles, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Dillenback, Drinkwater, Farnum, Foss, Foster, Greenlaw, Gwadlosky, Hale, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jackson, Jalbert, Joseph, Kimball, Lacroix, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Masterman, Matthews, McPherson, Murphy, E.M.; Murphy, T.W.; Nadeau, G.R.; Nicholson, Nickerson, O'Gara, Paradis, E.J.; Parent, Paul, Pines, Pouliot, Priest, Rice, Ridley, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.B.; Smith, C.W.; Sproul, Stetson, Stevens, A.G.;

Stevens, P.; Strout, Tammaro, Taylor, Telow, Theriault, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton

ABSENT:—Connors, Racine, Randall, Rioux, Small, Stevenson

54 having voted in the affirmative and 91 in the negative with 6 being absent, the motion did not prevail.

Whereupon, Committee Amendment "A" (H-214) as amended by House Amendment "C"; (H-332) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as by House Amendment "C" thereto.

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

The Chair laid before the House the following matter: An Act to Revise the Maine Securities Act (H.P. 1022) (L.D. 1500) (C. "A" H-333) which was tabled earlier in the day and later assigned pending passage to be enacted.

On motion of Representative Brannigan of Portland, under suspension of the rules, the House reconsidered its action whereby the bill was passed to be engrossed.

The same Representative offered House Amendment "A" (H-368) and moved its adoption.

House amendment "A" (H-368) was read by the Clerk and adopted.

The Bill was passed to be engrossed a amended by Committee Amendment "A" (H-333) and House Amendment "A" (H-368) and sent up for concurrence.

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

The Chair laid before the House the following matter: An Act Concerning Nomination Petitions for Unenrolled Candidates (H.P. 1063) (L.D. 1542) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Handy of Lewiston, under suspension of the rules, the House reconsidered its action whereby the bill was passed to be engrossed.

The same Representative offered House Amendment "C" (H-336) and moved its adoption.

House Amendment "C" (H-336) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of this amendment which merely corrects a technical problem in what I believe is an extremely bad bill. I hope that after we move to indefinitely postpone the amendment, we can then move to indefinitely postpone the bill and all its accompany papers.

L.D. 1542 did receive the unanimous "Ought to Pass" Report from the Legal Affairs Committee. Since the time when I agreed to support it, I have understood more clearly the possible negative effects of this bill. The intent of the sponsors and the supporters of this bill and of the Legal Affairs Committee in reporting it out was to strengthen the two party system. However, many people who have reviewed this bill, since it was reported out, feel it could have exactly the opposite effect. It could have the effect of giving up false legitimacy and status to the unenrolled candidates, the so-called independent candidate, and consequently, to the unenrolled voter as well.

We now have procedures and rules for the Republican and the Democratic parties. Unenrolled voters don't share any of the privileges and benefits of being in a party such

as being able to sign petitions and vote in primaries. This bill creates a procedure for signing independent petitions that implies that independent candidates have the same status as party candidates. It creates the false impression that an independent party exists and a false impression of what it means to be an unenrolled voter. Consequently, contrary to the intent of the sponsors, the unenrolled voters may be encouraged to stay unenrolled and encouraged to feel that they should support independent candidates rather than the Republican and Democratic candidates who need their votes. I commend the sponsors for their intent but the consequences of the bill, I believe, will be to encourage the development of the third party and weaken the two party system. So, I hope you will vote to indefinitely postpone the entire bill.

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

Representative HANDY: Mr. Speaker and Members of the House: House Amendment "C" which is before you today does two things. Along with the bill, it requires that those non-party candidates gather their signatures from those individuals only who do not belong to either political party recognized in this state.

Secondly, it restores the language that currently exists in our statutes. For example, in a State House race it would require those non-party candidates to get 50 signatures at a minimum on their petitions. Party candidates would have to get the current 25. It is as simple as that.

I view this piece of legislation as something that is going to bolster the two party system that we have in this state. I feel that today we all have an opportunity to do that.

One might say, this is unusual that the parties have such an advantage. It is not unusual at all. Title 21, the Maine Election Law Statutes, has granted certain advantages to those individuals who belong to political parties and certain advantages to those individuals to the political parties in the State of Maine. I think this is just consistent with the current statutes that we have. I would hope that you oppose the motion before you to indefinitely postpone this amendment so that we can go on and pass this fine piece of legislation.

Representative Handy of Lewiston requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Reeves of Pittston that House Amendment "C" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 171

YEAS:—Aliberti, Allen, Baker, A.L.; Baker, H.R.; Beaulieu, Bonney, Bost, Brannigan, Brodeur, Carroll, Carter, Cashman, Chonko, Coles, Connolly, Cooper, Cote, Crowley, Daggett, Descoteaux, Diamond, Dillenback, Duffy, Erwin, Gwadosky, Hale, Hayden, Hickey, Higgins, H.C.; Hoglund, Jackson, Jacques, Jalbert, Kimball, Lacroix, Lebowitz, Lisnik, Manning, Martin, H.C.; Matthews, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michael, Michaud, Mitchell, Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nickerson, O'Gara, Paradis, E.J.; Paul, Perry, Pouliot, Priest, Reeves, Richard, Ridley, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Simpson, Stetson, Stevens, A.G.; Stevens, P.; Swazey, Tammaro, Tardy, Theriault, Vose, Walker, Warren, Weymouth, Willey

NAYS:—Armstrong, Begley, Bell, Bott, Boutilier, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Clark, Connors, Crouse, Davis, Dellert, Dexter, Drinkwater, Far-num, Foss, Foster, Greenlaw, Handy, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham; Lander, Law, Lawrence, Lord, MacBride, Macomber, Masterman, Mayo, McPherson, Mills, Murphy, E.M.; Murphy, T.W.; Nicholson, Paradis, P.E.; Parent, Pines, Rice, Salsbury, Seavey, Sherburne, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Strout, Taylor, Telow, Webster, Wentworth, Whitcomb, Zirkilton

ABSENT:—Joseph, Kane, Moholland, Racine, Randall, Rioux, Small, Stevenson, The Speaker
81 having voted in the affirmative and 61 in the negative with 9 being absent, the motion to indefinitely postpone House Amendment "C" did prevail.

Representative Reeves of Pittston moved indefinite postponement of the Bill and all accompanying papers.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I shouldn't say this, but this is my bill. I think it is a good bill. At the hearing, I recall, there was only one person speaking against this bill because of the numbers involved that the independent must have of the unenrolled voter. There is no problem getting signatures, you all know that. You put out papers and many times there are too many signatures on the paper anyway and you have to hunt for one that is within the right numbers to send in.

The committee came out with the unanimous "Ought to Pass" Report. I just can't believe that anyone could turn this completely around and vote against it. It certainly doesn't give much credit to the process. The other body has a chair who is an attorney, has no problem with the bill. In fact, the other body has passed this bill. As I say, I can see no problem with it. I think it strengthens the party and seems to me we should have it.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Men and Women of the House: As I said before, both the committee and the sponsors of the bill had the best intentions in terms of strengthening the parties but as I have explained to you, I believe that this bill would, in fact, weaken the Democrat and Republican parties. There is a provision for this signing of presidential election petitions in the bill which is completely unconstitutional, not to mention the issues that I mentioned before. I do hope that before we pass the bill that would have such far reaching consequences, we would indefinitely postpone the bill now and take another look at the issue. Please vote to indefinitely postpone.

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

Representative HANDY: Mr. Speaker, and Members of the House: I would like to pose a question to the gentledady from Pittston.

The Representative indicated to me that she is going to speak with the Attorney General to see if maybe there is a problem with this legislation. I wonder if she has done so and what was the result of that conversation?

The SPEAKER: Representative Handy of Lewiston has posed a question through the Chair to Representative Reeves of Pittston, who may respond if she so desires.

The Chair recognizes that Representative.

Representative REEVES: Mr. Speaker, Ladies and Gentlemen of the House: Yes, I have spoken to the Attorney General and I have not gotten an official answer from him yet.

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

Handy.

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

Representative HANDY: Mr. Speaker and Members of the House: The amendment that we just did away with sought to clear up the constitutional problem alluded to by the Representative from Pittston. I think that there is still legislation here that is worth putting on the books. I would hope that you would oppose the motion to indefinitely postpone so that we can put this on the books.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: I, for one, am sticking with the unanimous "Ought to Pass" Report of this Committee. If feel this is good legislation and straight forward. What it does is currently, if you are a Republican and you are out there in a primary, or you are a Democrat and you are out there in a primary, you can only have members of your party sign the nomination petition. What this is saying is that, if someone runs as an unenrolled candidate, they cannot go and gather signatures from the Republican or Democratic party. I hope you will vote against the motion to indefinitely postpone.

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

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: I support the motion by the Representative from Pittston. There is a possibility here that we might be creating a third party. People drawn together by a common objective would almost think that they are in a third party. The Democratic party and the Republican Party have both been chartered by the state and live by certain rules and guidelines. We would be creating another party without rules and guidelines.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: There is only one way we are going to create a third party and that is if the Republican and the Democratic parties fail in offering responsible representation to the people of the State of Maine. Only when we fail to represent their views will there be a third party. I don't think that by passing this legislation we are opening the door. I hope you will vote against indefinite postponement of this bill.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: I think we should indefinitely postpone the bill before us. I would like to explain why. The allusion was made that if you are a Democrat or a Republican, you are the only one that can sign a petition to vote in a primary. That is true. But, in a general election, that is the election in which the unenrolled candidates would appear, a Democrat, a Republican or an unaffiliated member of the constituency may vote for that person. All of us have the right to vote for that person in a general election. Therefore, all of us should have that right to nominate that unenrolled candidate, if that person chooses to be on the ballot.

Remember an unenrolled cannot vote in a primary. I cannot vote in a Republican primary. It would make no sense for me to be able to sign a Republican nomination paper. But an unenrolled voter running in a general election, I can vote for. Therefore, I should be able to sign the nominating papers. That is the argument I think that should be used in terms of disposing with this legislation.

The other point that I wish to make is that

I don't think that this bill, if it is passed, will be the end of the world but the preception that will be created by the voters will be that two major parties are making a power play to restrict an unenrolled voter's ability to get nominated. That is the perception that people will see if this bill is passed. That perception can only hurt the major parties. It will only alienate people from these parties. If we are concerned about strengthening our two party system, there are many other available approaches that we can use to get people to join the parties. The passage of this bill will not strengthen the parties, it will only create suspicion in the minds of many people as to what our motivations as major parties are.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: This morning's paper, the Portland Press Herald editorial, listed this bill as dead. Now, I suppose if we want to give credibility to that paper, we should do that. But I don't think by doing that we would give credibility to the committee that gave this a unanimous "Ought to Pass" Report.

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

Representative HANDY: Mr. Speaker and Members of the House: I would just like to briefly explain to you that there are statutes in the current law in Chapter 10, Title 21 that lay out the steps that any individual or group of individuals have to go through to form a political party like the Democratic party did and the Republican party did, so if any group of individuals want to do that, they are entitled to under the election laws currently.

Representative Smith of Island Falls requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Reeves of Pittston to indefinitely postpone the bill and all accompanying papers. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 172

YEAS:—Aliberti, Allen Baker, H.R.; Beaulieu, Bost, Brannigan, Broudeur, Cahill, Carroll, Carter, Chonko, Coles, Connolly, Cooper, Cote, Crowley, Daggett, Descoteaux, Diamond, Dillenback, Duffy, Erwin, Foss, Gwadosky, Hale, Harper, Hayde, Hichey, Hillock, Hoglund, Jacques, Kimball, Lacroix, Lebowits, Manning, Martin, H.C.; McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, Moholland, Murray, Nedeau, G.G.; Nadeau, G.R.; O'Gara, Pardis, E.J.; Paul, Perry, Pines, Pouliot, Priest, Reeves, Richard, Ridley, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Simpson, Stetson, Stevens, A.G.; Stevens, P.; Swazey, Telow, Teriault, Vose, Walker, Warren, Webster, Weymouth

NAYS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Boutilier, Bragg, Brown, A.K.; Brown, D.N.; Callahan, Cashman, Clark, Conners, Crouse, Davis, Dellert, Dexter, Drinkwater, Farnum, Foster, Greenlaw, Handy, Hepburn, Hichborn, Higgins, L.M.; Holloway, Ingraham, Hackson, Halbert, Lander, Law, Lawrence, Lord, MacBride, Macomber, Masterman, Matthews, Mayo, McPherson, Murphy, E.M.; Murphy, T.W.; Nelson, Nicholson, Nickerson, Paradis, P.E.; Parent, Rice, Salsbury, Seavey, Sherburne, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Strout, Tammara, Taylor, Went-

worth, Whitcomb, Willey, Zirnklilton

ABSENT:—Carrier, Higgins, H.C.; Joseph, Kane, Lisnik, Racine, Randall, Rioux, Small Stevenson, Tardy, The Speaker

77 having voted in the affirmative and 62 in the negative with 12 being absent, the motion to indefinitely postpone did prevail.

Representative Connolly of Portland, having voted on the prevailing side, moved the House reconsider its action whereby the bill was indefinitely postponed.

The SPEAKER: Representative Connolly of Portland moves that the House reconsider its action whereby the Bill was indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A viva voce vote having been taken, the motion did not prevail.

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

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

Papers from the Senate

The following Joint Order: (S.P. 635)

ORDERED, the House concurring, that Bill "An Act to Prevent Discrimination Against Retired Maine Residents who have Previously been Members of the Maine State Retirement System" (H.P. 212) (L.D. 246), be recalled from engrossing to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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

Papers from the Senate

Report of the Committee on Judiciary on Bill "An Act to Establish the Maine Court Facilities Authority" (S.P. 564) (L.D. 1504) reporting that it be referred to the Committee on State Government.

Came from the Senate with the report read and accepted and the bill referred to the Committee on State Government.

Report was read and accepted.

Representative Martin of Eagle Lake moved indefinite postponement of the Bill and all its accompanying papers.

Representative Allen of Washington requested a Division on the motion to indefinitely postpone.

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

Representative DRINKWATER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the Chair. I would like to ask if this piece of legislation is the one where we are going to transfer the Maine Supreme Judicial Court from Bangor to Augusta? Is that the same piece of legislation?

The SPEAKER: The Chair would answer in the negative.

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I would urge you to vote against the indefinite postponement. This weekend, as most of you know, the Judiciary Committee worked Friday evening until nine o'clock and again all Saturday morning until afternoon.

One of the decisions that we made was that the bill that we had had a hearing on concerning court facilities, which is on your Supplement No. 11 (1-1), was a bill that truly belonged in front of State Government. The public hearing has already been held. We understand that the State Government Committee is familiar with this type of authority. Quite frankly, the bill as written, there is very, very little language change that can be made because it has been drafted by a bondsman. Simply, State

Government is going to make that policy decision as to whether or not this court facilities authority should be established. The unofficial opinion of the Judiciary Committee is, it should. The public hearing has been held. The bill, as it is written, cannot be amended in any—well maybe in slight form, because it has to go according to bond law. We are simply asking that the State Government take a quick look at this. I understand that their committee assistant is familiar with the creation of authorities because they were instrumental in creating FAME.

As far as the legality, it is quite similar except this, believe it or not, is a more simple issue.

I would urge you to vote against the indefinite postponement. We would like to refer this bill to State Government. I am sure that they will be able to deal with the bill efficiently and speedily.

Representative Martin of Eagle Lake withdrew his motion to indefinitely postpone the Bill.

On motion of Representative Allen of Washington, the Bill was substituted for the Report, the Bill read once and assigned for Second reading tomorrow.

Ought to Pass as Amended

Report of the Committee on Human Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-246) on Bill "An Act to Ensure Adequate Services for Head Injured Persons in Maine" (S.P. 572) (L.D. 1507)

Came from the Senate, with the report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-246) and Senate Amendment "A" (S-252).

Report was read and accepted and the Bill read once.

Committee Amendment "A" (S-246) was read by the Clerk and adopted.

Senate Amendment "A" (S-252) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second reading, passed to be engrossed as amended in concurrence.

The following item appearing on Supplement No. 9 was taken up out of order by unanimous consent.

Consent Calendar Second Day

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

(H.P. 617) (L.D. 887) Bill "An Act to Establish Special Motor Vehicle License Plates for Firefighters" (C. "A" H-362)

On objection of Representative Strout of Corinth, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-362) was read by the Clerk.

Representative Strout of Corinth offered House Amendment "A" (H-369) to Committee Amendment "A" (H-362) and moved its adoption.

House Amendment "A" (H-369) to Committee Amendment "A" (H-362) was read by the Clerk.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will be very careful this evening considering the amendment from the good gentlemen from Corinth, Representative Strout. If you read the bill and the amendment together, it says that firefighters would be given a special plate designation, FF.

We have passed so many bills here that

sometimes they kind of get ahead of us, and they go by so quickly. I don't know why we need special legislation to permit fire fighters to have a special plate. I understand the Secretary of State can dip into his hat and come out with some alphabet soup like he did for the national guard, NG.

I think there might be something misleading about having that lettering on there. People might not understand that it stands for fire fighter. Now it could stand for fickle friend or it could stand for feisty fire fighter, it could stand for fasting fatso, if you are a dieter, or someone who doesn't care, maybe it stands for fat and fancy. It would give the wrong impression.

I can't help thinking that if we set a precedent and start all this alphabet soup on all the plates, not only are we going to end up running out of alphabets, but we are going to be hit by a lot of other interest groups.

I would like to suggest some of the people that might be hitting us if we pass this legislation. All those that play basketball, they might like BP, basketball player; or the softball players might come over and ask the Transportation Committee to have SBP, softball players. There are some in this House that would be worthy of having on their plate HBP, hardball players; RBA—now that doesn't necessarily for runs batted in, it could stand for red-blooded American. There are a lot of people that might want to have that plate. Some members of this House may want ONTP to show how they vote in committee on all the bills that have been coming out. Some just like to hide, they vote leave to withdraw, LTW. That gives them an opportunity to vote without saying anything about their vote.

In all seriousness, my friends in the House, I hope that you will seriously consider whether we need L.D. 887 because it does really pose a precedent to establish a law that we may not really have to pass. I think that the sponsors would do well to ask the Secretary of State to dip into his big hat and come out with some alphabets that might please some interest groups.

I tried to be kind of humorous and I attempted only partially perhaps to show that there are a lot of people out there that want all kinds of designations on their plates and they might use the plates for something that is not intended by the legislature and that is to identify the person in the car. So, I hope that you will seriously consider not adopting this bill.

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

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I would have wished that the previous gentlemen would have kept his remarks to the amendment that is being offered. How he feels about this bill, I really don't care. The reason that I offered the amendment was to more or less tighten up on those fire fighters who cease to be active. That is the reason the amendment is being offered.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good gentlemen, I would think that a more proper amendment that would be before us would have FFF, formerly a fire fighter.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative McPherson.

Representative McPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentlemen from Corinth. What happens if the fire chief fails to notify the Secretary of State?

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

Representative CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question. I read the amendment and I think that it says a one time, five dollar fee. I imagine that is for the plate itself. So what happens if you lose the plate, can they still charge them a fee for a second issue because it says one time, five dollar fee?

The SPEAKER: The Chair recognizes the Representative from Fort Kent, Representative Theriault who may respond to the question.

Representative THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: The fee that would be charged would be the same as would be charged for anyone else who requests a new plate.

Thereupon, House Amendment "A" (H-369) to Committee Amendment "A" (H-362) was adopted.

Committee Amendment "A" (H-362) as amended by House Amendment "A" (H-369) thereto was adopted.

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

The following item appearing on Supplement No. 12 was taken up out of order by unanimous consent.

Papers from the Senate Non-concurrent Matter

Bill "An Act Authorizing State Employees to Purchase State Property Upon Retirement or Leaving Office" (H.P. 1036) (L.D. 1510)

—In House, Passed to be Enacted on May 20, 1985.

—In Senate, Passed to be Enacted on May 20, 1985, in concurrence.

—Recalled from the Governor's Desk pursuant to Joint Order (S.P. 623)

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-251) in non-concurrence.

The House voted to recede and concur.

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

Representative Greenlaw of Standish was granted unanimous consent to address the House.

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: In reference to Roll Call No. 168, I was recorded as being absent when, in fact, I was present and voted yea and I wish to be recorded as such.

On motion of Representative Dillenback of Cumberland,

Adjourned until nine o'clock tomorrow morning.