

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Twelfth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume II**

**FIRST REGULAR SESSION**

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

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## HOUSE

Thursday, June 13, 1985

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

Prayer by Father Valmont Gilbert, St. Augustine's Church, Augusta.

Quorum called; was held.

The Journal of yesterday was read and approved.

**Papers from the Senate**

The following Communication:

The Senate of Maine  
Augusta

June 12, 1985

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

Dear Clerk Pert:

Please be advised the Senate Insisted and Joined in a Committee on Conference on the disagreeing action between the two branches of the legislature on Bill "An Act Concerning Nomination Papers for Unenrolled Candidates" (H.P. 1063) (L.D. 15424).

The President has appointed the following Conferees:

Senate Pray of Penobscot

Senator Violette of Aroostook

Senator Danton of York

Thank you.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine  
Augusta

June 12, 1985

The Honorable John L. Martin  
Speaker of the House  
112th legislature  
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Agriculture, the Governor's nomination of Cheryl Kelley of St. Francis, Jesse Harriman of Richmond and Russell Pinfold of Brunswick for reappointments to the Animal Welfare Board.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

The following Communication:

The Senate of Maine  
Augusta

June 12, 1985

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

Dear Clerk Pert:

House Paper 1132, Legislative Document 1639, : An Act to Establish the Maine Vocational-technical Institutes Administration, having been returned by the Governor together with his objections to the same pursuant to the provisions of the Constitution of the State of Maine, after reconsideration the Senate proceeded to vote on the question: "Shall this Bill become a law notwithstanding the objections of the Governor?"

Seventeen Senators having voted in the affirmative and seventeen Senators having voted in the negative, accordingly it was the vote of the Senate that the Bill not become a law and the veto was sustained.

Respectfully,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

**Unanimous Ought Not to Pass**

Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Establish Statutory Definition of Entrapment under the Maine Criminal Code" (S.P. 451) (L.D. 1254)

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

**Divided Report**

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-270) on Bill "An Act to Amend the Maine Certificate of Need Act to Require More Timely Decision Making on the Part of the Department of Human Services" (S.P. 214) (L.D. 572)

Signed:

Senators:

BUSTIN of Kennebec

GILL of Cumberland

BERUBE of Androscoggin

Representatives:

MANNING of Portland

KIMBALL of Buxton

NELSON of Portland

PINES of Limestone

TAYLOR of Camden

CARROLL of Gray

BRODEUR of Auburn

SEAVEY of Kennebunkport

ROLDE of York

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

Signed:

Representative:

MELENDY of Rockland

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-270).

Reports were read.

Representative Nelson of Portland moved acceptance of the Majority "Ought to Pass" Report.

Representative NELSON: Mr. Speaker, Men and Women of the House: The bill before you really is the Committee Amendment and basically it talks about the timeliness of decision. Currently, in the State of Maine, you can wait a year to a year and a half before you have any decision from the Department on a very important issue of Certificate of Need so this bill addresses that problem so that you would know your decision in a truly, timely fashion.

As you can see, the majority, 12 people on the committee, believe that this report, which we worked on long and hard, is the way to go. I hope you will go with the Majority Report.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I move indefinite postponement of L.D. 572 and all its accompanying papers.

This was one of those bills that was caught in our committee at the end of the session when we were told to "move things out and move them fast," and I believe if you begin to listen to some of the testimony that will be coming up, you will find that there is, indeed, a problem with this, but I have more than a problem that most of them have in terms of what had happened with it and would like to speak to you about this.

This bill, as amended by the Committee Amendment, makes serious changes in the Certificate of Need law which I cannot agree with. This bill alters the procedure for reconsideration and appeal of a decision of the Department of Human Services on a Certificate of Need application. I believe, before I explain why the changes made in this bill are detrimental to the Certificate of Need process, it would be helpful for all of us to have a clear

picture of what the process is under the present law. This legislature wisely enacted a Certificate of Need law as part of its plan to help reduce the skyrocketing costs of medical services to Maine citizens. The Certificate of Need law is designed to accomplish that by reducing unnecessary construction and modification of health care facilities and reducing duplicative health services.

The Maine citizen must pay for every unnecessary health care facility, every unnecessary piece of expensive medical equipment and every duplication of health services. A Certificate of Need is required for the purchase of major medical equipment, meaning something that costs over \$300,000, including a new wing for a hospital for the development of new health services. A health care provider must apply for this Certificate from the Department of Human Services. The Department is responsible for reviewing the application and a public hearing may be held as part of the review. The Department must then make a decision of whether to grant a Certificate of Need based on the information in the record. We must also keep in mind that there are provision in the law for shortening the review period if a genuine emergency exists and delay would have a serious, adverse affect on the applicant and the community. Any person who is aggrieved by the decision of the Department may appeal to the Superior Court in a limited number of cases. The person who seeks appeal to the court must first request that the Department reconsider its action. Exception to a direct appeal are (1) if new information is submitted, which was not previously considered by the Department; (2) if there has been a change in circumstances since the Department made its decision; (3) if the Department has failed to follow proper procedures and (4) other related reasons, clearly these are all either new circumstances or violation of current procedures, a reconsideration is proper form for these questions. If there is new information, the Department should reconsider its decisions, if the circumstances have changed since the original decision was reached the Department should reconsider its decision. If the Department agrees that it has violated its procedures, the Department should reconsider the application properly. Note, if the Department does not find that it violated its procedures, the applicant can already go directly to the Superior Court and appeal that issue.

In limited circumstances, the proper procedure is for the Department to reconsider its decision. Once that reconsideration has taken place, any person aggrieved by that decision can immediately appeal to Superior Court. In all other cases, after a decision has been made by the Department on the Certificate of Need application, the aggrieved person can already go immediately to Superior Court.

L.D. 572 does not propose to add a new review procedure to the law. It does not give the applicant any more remedies than currently exists now under the law. L.D. 572 is clearly an attempt to overrule the Department's statutory decisionmaking authority. L.D. 572 is merely an attempt to try to obtain a Certificate of Need when there has been a determination that the new medical equipment is unnecessary or duplicative.

Sections 2 and 3 of this bill allow the applicant or other persons affected by the decisions to bypass a reconsideration hearing completely; this is improper. If you examine the purpose of the reconsideration hearing, it is not the same as an appeal to the courts. A reconsideration hearing is designed to consider new evidence or to correct an error in procedure when the Department had admitted that an error in procedure existed. The review by the court normally takes place after all appropriate administration action has been taken.

We have a system of government that relies on three separate branches. The Judicial

Branch of government was not created to act as an executive agency and will not substitute its judgement for that of the executive agency. If the reconsideration hearing is bypassed and the applicant or other person goes directly to court, you are asking the court to act as an executive agency.

In addition, the option to bypass a reconsideration hearing will generally result in the court sending the case back to the Department for a reconsideration hearing; thus, the procedure will take longer than before instead of providing a shortcut. Why will this supposedly shortcut actually take longer? The answer is found in the very section of the law that this bill refers to when it establishes the bypass procedure. The judicial review is confined to the record upon which the agency decision was based. In cases where additional evidence is necessary, the law specifically says where additional evidence could not have been presented, the court will order the Department to obtain that additional evidence and, if it finds that the evidence makes a difference in the decision, the agency is allowed to modify its original decision; thus, all you would gain is a delay in the process, not to mention added legal costs. If the circumstances have changed, the same thing will happen, the court will send the case back to the Department for its reconsideration, it may not call it reconsideration, but the effect will be the same. How can we be so sure? Because, once again, the law says that the court shall not substitute its judgment for that of the agency on questions of fact. Whenever new factual situations arise, the case will be sent back to the Department instead of eliminating one step of the process. If you enact this bill, you will have added an additional and costly step. This bill is unnecessary because a party may appeal its decision with the Superior Court now, once it has been determined that a reconsideration hearing is improper.

In closing, let me say, I urge you to vote against this bill and its accompanying papers. L.D. 572 is just one of the many attacks on the state's plan to keep a lid on the skyrocketing costs of health care in Maine and, in this case, an attack destined to backfire and only complicate the system to health care providers and consumers alike.

The Human Resources Committee will be studying the entire Certification of Need process during the interim. If you feel that there is a problem here that should be addressed, let it be addressed in a sensible and logical manner, let it be addressed in the context of the entire state program to contain health care costs and provide some stability for health care providers. Let it be addressed in the study. I urge you to vote against the enactment of this bill at this time.

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

A vote of the House was taken.

9 having voted in the affirmative and 90 in the negative, the motion did not prevail.

Whereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (S-270) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

#### Reports of Committees

##### Unanimous Leave to Withdraw

Representative MURRAY from the Committee on Business and Commerce on Bill "An Act to Reduce Workers' Compensation Rates for Unarmed Security Guards and Watchmen" (H.P. 331) (L.D. 447) 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 items appeared on the Consent Calendar for the First Day:

(S.P. 423) (L.D. 1171) Bill "An Act to Permit Voluntary Hospitalization of Adults under Guardianship" Committee on Judiciary reporting "Ought to Pass"

(S.P. 497) (L.D. 1335) Bill "An Act to Amend Certain Aspects of Criminal Homicide in the Maine Criminal Code" (Emergency) Committee on Judiciary reporting "Ought to Pass"

(S.P. 450) (L.D. 1253) Bill "An Act to Establish a Procedure to Appoint Advocates for Foster Children" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-271)

(H.P. 1031) (L.D. 1483) Bill "An Act to Exempt Search and Rescue Units from the Sales and Use Tax" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-398)

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

#### Orders of the Day

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

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

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

TABLED—June 12, 1985 (Till Later Today) by Representative DIAMOND of Bangor.

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

On motion of Representative Diamond of Bangor, retabled pending adoption of Committee Amendment "A" (H-154) as amended by House Amendment "A" (H-263) thereto and later today assigned.

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

An Act to Amend the Wood Measurement Laws (Emergency) (H.P. 960) (L.D. 1381)

— In House, Passed to be Enacted on June 4, 1985.

— In Senate, Failed of Passage to be Enacted in non-concurrence.

TABLED—June 12, 1985 (Till Later Today) by Representative JACQUES of Waterville.

PENDING—Further Consideration.

On motion of Representative Michaud of Medway, retabled pending further consideration and tomorrow assigned.

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

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

— In House, Passed to be Enacted on June 10, 1985.

— In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-226) as amended by Senate Amendment "A" (S-262) thereto in non-concurrence.

TABLED—June 12, 1985 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING—Further Consideration.

On motion of Representative Diamond of Bangor, retabled pending further consideration and tomorrow assigned.

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

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

TABLED—June 12, 1985 by Representative BROWN of Gorham.

PENDING—Passage to be Engrossed.

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

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

Expression of Legislative Sentiment recognizing the Town of Eddington (SLS 270)

TABLED—June 12, 1985 by Representative BOST of Orono.

PENDING—Motion of same Representative to Reconsider passage in concurrence.

On motion of Representative Bost of Orono, retabled pending his motion to reconsider passage in concurrence and later today assigned.

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

Bill "An Act Concerning 'Beano' or 'Bingo' on Indian Reservations" (H.P. 376) (L.D. 517) (C. "A" H-193)

TABLED—June 12, 1985 by Representative REEVES of Pittston.

PENDING—Motion of same Representative whereby the House Failed to Override the Governor's Veto.

Representative ATTEAN was granted unanimous consent to address the House:

Representative ATTEAN: Mr. Speaker, Ladies and Gentlemen of the House: In my haste yesterday, I failed to mention a few points mentioned in the Governor's veto message. First of all, I would like to correct the misconception about the money that was awarded to the Indians in the Land Claims Settlement Act. The dollar amount, as you all know was \$81.5 million. Of that money, \$1 million went to the Houlton Band of Maliseets to acquire a land-base. \$1 million went to each tribe, the Penobscot's and the Passamaquoddy's to be held in trust, administered by the Department of Interior and the Bureau of Indian Affairs. This interest income is distributed quarterly to the Seniors on a per capita basis. The balance of \$78.5 million was split between the Penobscots and the Passamaquoddy's; that figure is \$39.25 million. Of that figure, \$12.5 million is held in trust by the Bureau of Indian Affairs and administered by them. Approximately, 25 percent of the interest income is reinvested to compensate for inflation and population growth. Administrative costs are then deducted. The rest is paid out quarterly on a per capita basis, which equals approximately \$150 to \$200 every three months. The balance of that fund, \$26.75 million is used to buy designated trust land. In the process of buying this trust land, Penobscot's were forced into buying non-trust land, commonly called fee land. This land produces income through woodcutting operations. This income must pay the state and county taxes, management costs, contributes to tribal governmental operations and investments. If we were to dedicate all of this revenue to operating capital, shut off the portion for investments, there would be nothing left to build our financial base, which is necessary, not only for us, but ultimately for the state.

I would suggest that our request is hardly a throwback to the past, not when we want to continue our investment in the future of Maine's economy, build a secure financial base for our children and continue to promote our socioeconomic contributions to this great state.

I would like to explain this bill to you. It is House Amendment (H-193). This was the unanimous report from the Legal Affairs Committee. The revenues from Bingo operations are dedicated to tribal governmental operations,

programs, economic development and to provide for the general welfare of the tribe and its members, and they also donate to charity organizations and to help fund operations of local government agencies.

Tribal bingo operations shall be managed solely by the respective tribes. Management costs shall be deducted from gross revenues. This bill also contains a sunset, two years, by which time the Penobscot Nation and the Passamaquoddy tribes shall report to the Joint Standing Committee on Legal Affairs on the effectiveness of this act.

Ladies and Gentlemen, I respectfully request your vote, vote yes for me, please.

Whereupon, the House reconsidered its action whereby the veto failed.

The SPEAKER: The pending question before the House is "shall this bill become a law notwithstanding the objections of the Governor?" Pursuant to the Constitution of the State of Maine, it requires a two-thirds vote by the Members present and voting. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 183V

YEAS:—Allen, Armstrong, Baker, H.R.; Beaulieu, Begley, Bonney, Boutillier, Callahan, Carroll, Cashman, Chonko, Clark, Coles, Conners, Connolly, Cooper, Cote, Crowley, Daggett, Dellert, Dexter, Drinkwater, Erwin, Farnum, Foss, Greenlaw, Gwadosky, Hepburn, Hichborn, Hillock, Hoglund, Holloway, Ingraham, Jackson, Jacques, Jalbert, Kimball, Lacroix, Law, Lawrence, Lebowitz, Macomber, Masterman, McHenry, McPherson, Mills, Moholland, Murphy, E.M.; Murphy, T.W.; Nadeau, G.R.; Nelson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pouliot, Racine, Randall, Reeves, Rice, Rioux, Rolde, Rotondi, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, C.B.; Stetson, Stevens, A.G.; Stevenson, Taylor, Telow, Vose, Walker, Warren, Webster, Wentworth, Weymouth, Whitcomb, Zirkilton

NAYS:—Aliberti, Baker, A.L.; Bell, Bost, Bragg, Brannigan, Brown, A.K.; Cahill, Carter, Crouse, Davis, Descoteaux, Diamond, Foster, Hale, Handy, Harper, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Joseph, Lander, Lisnik, MacBride, Manning, Martin, H.C.; Matthews, McCollister, McGowan, McSweeney, Melendy, Michael, Michaud, Murray, Nadeau, G.G.; Nicholson, Paul, Pines, Priest, Richard, Ridley, Roberts, Smith, C.W.; Soucy, Sproul, Strout, Swazey, Tammara, Theriault, Willey, The Speaker

ABSENT:—Bott, Brodeur, Brown, D.N.; Carrier, Dillenback, Duffy, Kane, Lord, Mayo, Mitchell, Ruhlin, Stevens, P.; Tardy

86 having voted in the affirmative and 52 in the negative with 13 being absent, the Governor's veto was sustained.

Sent up for concurrence.

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

An Act Making Authorizations and Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Years Ending June 30, 1985, June 30, 1986, and June 30, 1987 (Emergency) (S.P. 222) (L.D. 585) (H. "A" H-378 to C. "A" S-250)

TABLED—June 12, 1985 by Representative CARTER of Winslow.

PENDING—Passage to be Enacted.

On motion of Representative Carter of Winslow, retabled pending passage to be enacted and tomorrow assigned.

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

HOUSE REPORT—"Ought to Pass" as amended by Committee Amendment "A" (H-390) - Committee on Human Resources on Bill "An Act to Encourage the Establishment of State-wide Standards for the Identification and Management of Child Abuse and Neglect" (H.P. 985) (L.D. 1415)

TABLED—June 12, 1985 by Representative DIAMOND of Bangor.

PENDING—Acceptance of Committee Report.

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

Committee Amendment "A" (H-390) was read by the Clerk.

Representative Nelson of Portland offered House Amendment "A" (H-397) to Committee Amendment "A" (H-390) and moved its adoption.

House Amendment "A" (H-397) to Committee Amendment "A" (H-390) was read by the Clerk and adopted.

Committee Amendment "A" (H-390) as amended by House Amendment "A" (H-397) thereto was adopted.

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

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

#### Papers From the Senate Divided Report

##### Later Today Assigned

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-274) on Bill "An Act to Amend the Maine Certificate of Need Act to Correct Inconsistencies Related to Other Statutory Provisions and to Ensure Cost-effective Development of Services Requiring Acquisition of Major Medical Equipment" (S.P. 461) (L.D. 1264)

Signed:

Senators:

BERUBE of Androscoggin  
GILL of Cumberland

Representatives:

SEAVEY of Kennebunkport  
KIMBALL of Buxton  
NELSON of Portland  
PINES of Limestone  
TAYLOR of Camden  
ROLDE of York

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-275) on same Bill.

Signed:

Senator:

BUSTIN of Kennebec

Representatives:

BRODEUR of Auburn  
CARROLL of Gray  
MANNING of Portland  
MELENDY of Rockland

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-274)

Reports were read.

Representative Nelson of Portland moved acceptance of the Majority "Ought to Pass" Report.

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

#### Non-concurrent Matter

RESOLVE, to Establish a Commission to Prepare a Revision of the State's Motor Vehicle Laws (Emergency) (S.P. 321) (L.D. 810) (Conf. Com. "A" (H-370) which was Finally Passed in the House on June 12, 1985.

Came from the Senate passed to be Engrossed as amended by Conference Committee Amendment "A" (H-370) as amended by Senate Amendment "A" (S-278) thereto in non-concurrence.

The House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act Relating to Investigations of Child Abuse in Institutions Licensed by the State" (H.P. 923) (L.D. 1330) which was passed to be Engrossed as amended by Committee Amendment "A" (H-385) in the House on June 12, 1985.

Came from the Senate passed to be Engrossed as amended by Committee Amendment "A" (H-385) as amended by Senate Amendment "A" (S-276) thereto in non-concurrence.

The House voted to recede and concur.

#### Consent Calendar

##### First Day

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

(S.P. 297) (L.D. 786) Bill "An Act to Clarify the General Assistance Law" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-272)

(S.P. 527) (L.D. 1422) RESOLVE, Authorizing Continued Study of Information Processing in Social Service Agencies (Emergency) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-273)

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

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

#### Petitions, Bills and Resolves Requiring Reference

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

##### Business and Commerce

Bill "An Act Relating to Shares of Stock of Asti-Kim Corporation" (Emergency) (H.P. 1144) (Presented by Representative ZIRNKILTON of Mt. Desert) (Cosponsors: Representatives GWADOSKY of Fairfield and ARMSTRONG of Wilton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed.)

Sent up for concurrence.

#### Held Bill

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

Representative REEVES: Mr. Speaker, is the House in possession of: Bill "An Act Concerning Liability for Injuries Caused by Drunken Persons" (S.P. 598) (L.D. 1568)?

(In House, Passed to Be Engrossed as amended by Committee Amendment "A" (S-263) in concurrence.)

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

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 1568 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-263) was adopted.

The same Representative offered House Amendment "A" (H-395) to Committee Amendment "A" (S-263) and moved its adoption.

House Amendment "A" (H-395) to Committee Amendment "A" (S-263) was read by the Clerk and adopted.

Committee Amendment "A" (S-263) as amended by House Amendment "A" (H-395)

thereto was adopted.

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

Representative Joseph of Waterville was granted unanimous consent to address the House:

Representative JOSEPH: Mr. Speaker, Men and Women of the House: In regard to 6-1 on your calendar, I ask your indulgence for a few moments as I explain why I think this bill was very important to each and every one of us.

The story of L.D. 447 is one of bureaucratic bargains and official insensitivity and true regulatory neglect. L.D. 447 is a direct result of the complete failure of the system and failure on part of the Bureau of Insurance to exercise its statutory authority to protect the interests of the consumers of Worker's Compensation Insurance especially some small employers.

The story begins over 8 years ago in 1977 when a small employer from the Waterville-Winslow area, who does provide unarmed security guards to service Waterville hospitals, objected to paying Worker's Compensation Insurance premiums at the same rate as police departments, public law enforcement agencies and Brinks armored car guards. The most dangerous weapons that these unarmed security guards carry are three-cell flashlights. The employers of the unarmed security guards felt that it was unfair to be placed in the same rating classification and paying the same rates as armed police officers who are routinely placed in situations of danger and potential violence. After a period of several years, which included many meetings with the insurance industry's northeast rating bureau and a public hearing, the superintendent of insurance agreed with the Waterville employer and then the superintendent of insurance ordered that a new classification be established effective July 1, 1982.

Then a very interesting thing happened. Since the new classification had not existed before, there was no direct loss experience assembled for that category so the Bureau of Insurance approved the same rates for the new classification that these employers had been paying in the old classification so even though the Bureau of Insurance recognized that a new classification was justified, it allowed and approved the continuation of the same injustice to continue under a new name. Shortly after this event occurred, the unarmed Waterville security service complained to me and to the Speaker of this body, who then began a two year effort to get a new rate assigned. After over two years, in the Fall of 1984, the Bureau of Insurance advised the Speaker's Office the insurance industry would probably not submit new data, even though it should be available until it filed a new rate case and that no rates would take effect until it filed a new rate case and that no rates would take effect until a rate case for higher Workers' Compensation insurance premium was approved. After 8 years, after going through the administrative review process, after testifying at a public hearing, after winning in this process, the Waterville Security Service and 38 of 40 other unarmed security services, who provide unarmed watchmen, are still paying the same rates as police agencies who carry weapons. They pursued the administrative remedies and won; yet, they still lost.

This is a classic triumph of form over substance. The victory was made hollow by the refusal of the Superintendent and the Bureau of Insurance to use the regulatory authority

authorized to him in Title 39, MRSA, Section 22, Paragraph C, Subsection 2a and 2b of that section. This is why I introduced this legislation with my colleague from Waterville, Mr. Jacques, and the Speaker after 8 years of frustrating, bureaucratic, footdragging — after 8 years of playing the bureaucratic administrative game under the guise of due process; after 8 years of utter and complete failure of the Bureau of Insurance to exercise the legal remedies available to right this obvious wrong even after it found the employers appeal to be justified.

The story is not over. In effort to kill this bill and placate the sponsor, myself, the Bureau of Insurance has added insult to injury by changing classifications to lower the premium rate of the employer in Waterville, who inspired this legislation, while leaving the remaining 38 of 40 unarmed security agencies in this state in the other classification, still paying the higher rates. While I am pleased that our constituent was so-called "taken care of" I am outraged at the bureaucratic arrogance of the bureau, which thinks it can get off the hook for its own failure by offering a pacifier to this legislation. The opponents of this legislation argue that the legislature should not engage in direct insurance rate settings, and I generally would agree with that under normal circumstances, but that is the reason we created the Bureau of Insurance in the first place, and, as I said, I do agree with one exception and that one exception is when the bureau totally and completely fails to remedy a situation, which the bureau itself recognized to be unfair, when the bureau itself failed to enforce the law while hiding behind a bureaucratic fortress of rules and practices that assist the insurance industry rather than regulate it, then this legislature becomes the court of last resort. It is generally our responsibility to correct this injustice and, hopefully, to send a message to that bureau that this legislature cannot and will not stand still for their patronizing attitude. The bureau is accountable to us and it is high time that we demonstrated just how accountable they are and should be.

The rate of reduction of L.D. 447 was 50 percent and has been criticized as arbitrary and unfounded. I submit to you that it was but it was no more arbitrary or unfounded than continuing to charge unarmed watchmen at the same rate as law enforcement officers after the bureau had acknowledged the need to differentiate between the two. However, as a responsible legislator and knowing that you all are, I believe our actions should rely upon a solid factual base. This bill has now been withdrawn. I thank the Business of Commerce Committee for their courtesy and I wanted you all to understand and to know the story and history of this wild tale of L.D. 447.

The SPEAKER: Pursuant to House Rule 1 and 2, the Chair would like to correct a statement made by a member of this body yesterday in reference to the voting rights of Indians during the debate on the veto yesterday. In the course of the debate, the comment was made that members of the Indian community in this state were not allowed to vote in this body — the Chair needs to remind members of the legislature that the members of the Indian Nations are within the legislative districts of different legislators in this body. The Penobscot Nation members, Indian Island at Old Town, are entirely within the voting district of the Representative from Old Town, Representative Cashman. Others who do not live in that particular area are part of other legislative districts and have voting members allocated appropriately pursuant to the Constitution.

Members of the Passamaquoddy Tribe are represented in this body by two members of the legislature, the Representative from Eastport, Representative Vose, who represents the members of the Passamaquoddy Nation,

who live at Pleasant Point and the Representative from Princeton, Representative Moholland, who represents those members of the Passamaquoddy Nation, who reside at Peter Dana Point or Indian Township.

Eleven years ago, when I became Speaker, this legislature granted the right to the two nations to be represented in this body as they had been prior to that time about twenty years before. That was done, quite frankly, by a partisan vote and it resulted in the adoption of what you now have in the rules as House Rule 55. That is the basis upon which the two present Indian Representatives now sit as members of this body and are here as members of the body pursuant to state law and their salaries and benefits are provided in the same fashion but it is incorrect to say that they cannot vote in this body. They do not represent a constitutional member pursuant to the Constitution and they are not allocated pursuant to the 151 membership that make up this body.

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

#### **Passed to Be Enacted Bond Issue**

##### **Later Today Assigned**

An Act to Authorize a Bond Issue in the Amount of \$4,300,000 for Constructing and Equipping Centers for Advanced Technology that Service the Economic Development Needs of Maine (S.P. 412) (L.D. 1142) (C. "A" S-265)

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.

#### **Bond Issue**

##### **Later Today Assigned**

An Act to Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Sewage Treatment and Water Quality Improvement Facilities and Restoration and Cleanup of Oil Contaminated Ground Water and Well Water (H.P. 907) (L.D. 1306) (C. "A" H-380)

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.

#### **Emergency Measure**

An Act to Amend Certain Vehicle Laws (S.P. 605) (L.D. 1599) (H. "A" H-379; S. "A" S-200)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 1 against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### **Emergency Measure Tabled and Assigned**

An Act to Make Supplemental Allocations from the Federal Expenditure Fund, Special Revenue Funds and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1986 and June 30, 1987 (H.P. 472) (L.D. 675) (H. "A" H-374 to C. "A" H-359)

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 tomorrow assigned.

An Act to Require the State to Comply with Municipal Ordinances Governing the Construction of Buildings (S.P. 185) (L.D. 503) (S. "B" S-227 to C. "A" S-123)

An Act to Reform the Law Relating to Farm Equipment Sales Tax Exemption (S.P. 187) (L.D. 505)

An Act to Amend Certain Sex Crimes Under the Maine Criminal Code (S.P. 525) (L.D. 1408) (C. "A" S-267)

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

An Act to Allow the Department of Human Services to Investigate and Provide Information on Community Health Issues (S.P. 535) (L.D. 1436)

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

On motion of Representative Carroll of Gray, under suspension of the rules, the House reconsidered its action whereby L.D. 1436 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-393) and moved its adoption.

House Amendment "A" (H-393) was read by the Clerk.

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: This is a technical amendment that we talked about during the debate, which strikes the reference to the Maine Firefighters Association, which doesn't exist, and add the Maine State Fire Chiefs' Association. It also add the appropriate appropriation.

Whereupon, House Amendment "A" (H-393) was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-393) and sent up for concurrence.

An Act to Amend the Offenses for Operating under the Influence (S.P. 562) (L.D. 1491) (H. "A" H-386; C. "A" S-260)

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

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I presume this morning that this bill we have in front of us to enact is the replacement for the OUI law that was struck down by the Supreme Court earlier this year. If that is the case, I wish someone would explain to us what this legislation does and how it compares with the previous legislation that was struck down as unconstitutional?

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 Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Men and Women of the House: Yes, this bill, L.D. 1491, which is rewritten in Committee Amendment "A" (H-260) is a Legal Affairs unanimous report of the new OUI law that the Governor presented to us. The first thing that it does is plug up a loophole in the present law having to do with the way to avoid the blood alcohol test. Currently, a person who says that they want to have a blood test at a hospital can then be taken to the hospital and refuse to sign the consent form in which case the hospital will not draw the blood and the person is technically not refused a blood test and, therefore, does not have the automatic suspension of license.

The first thing we did in this L.D. was make the breath test the test of choice for law enforcement officers unless there was a medical or other reason why the breath test cannot be administered. Then perhaps the major part of the bill is the changing of the sentences and the suspension period than the fines for first, second and third offense. All of these offenses are now currently in this L.D., criminal offenses as mandated by the Freeman decision.

This is an interim bill and the committee is continuing to study this issue and holding over another L.D. which proposes more civil offenses and penalties but this interim bill proposes two types of first offense, (1) if the person's blood alcohol level is under .15 percent and there were no other extenuating circumstances such as driving in excess of the speed limit by 30 miles an hour or alluding or attempting to allude an officer. If it is a simple first OUI offense, with no other offenses and the blood alcohol level was under .15, then there is no mandatory jail sentence. There is a mandatory \$300 fine and a suspension period of not less than 90 days. If the first offense has a test of blood alcohol level of over .15 and there are other offenses such as speeding or alluding a police officer, then a 48 hour jail sentence is mandatory as well as the \$300 minimum fine and the 90 day suspension period.

The second offense which would apply to any second offense carries with it mandatory minimums of a \$500 fine, a seven day jail sentence and a one year suspension period.

The third offense carries a mandatory 30 day jail sentence, \$750 fine and a mandatory 2 year suspension period. These are the basic changes that this bill proposes and what we have tried to do is make it very clear and simple to the public exactly what penalties are going to be imposed for first, second and third OUI offenses.

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

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

The concern that I have from the explanation that was given to us right now and what I was reading in the paper surrounds the .15 on a first offense where I, if I were stopped, had no previous record and were not over the 30 mile an hour speed limit — 30 more than the speed limit, the bill that was struck down by the courts said that you had to be at least .10 in order to be taken to court. Now this is less than .15 — I guess my question is, is there a minimum amount? If a person is stopped and their blood alcohol level is .02, they are technically less than .15 — are they then eligible, the way this is written, to be written up for driving under the influence? It didn't seem to me that, in your explanation or what I had read in the papers, that there was a minimum amount — that as long as you were less than .15, you were eligible to be cited for that violation? Is that the case?

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

The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask Representative Higgins, do you think that the minimum is, in your understanding, .10?

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

Representative HIGGINS: Mr. Speaker, Members of the House: I will see if I can explain my question better.

The original legislation said that if I were picked up for driving OUI, I had to have a blood alcohol level of .10 to be cited for a violation. The explanation that you gave just now indicates that in order to cite me for driving OUI, I can be cited if my blood alcohol is less than .15. There is no minimum amount in your explanation. My question is, could I now be cited if I were stopped and my blood alcohol was .02 or .05 or something less than what the original law was?

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

Reeves.

Representative REEVES: Mr. Speaker, Members of the House: The answer to that is no, the present legislation would still stand in regard to the minimum level of .10.

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

An Act Relating to Cumberland County Budget Process (S.P. 618) (L.D. 1629) (H. "B" H-382; C. "A" S-237)

An Act to Amend the Reapportionment Law (S.P. 619) (L.D. 1630) (H. "A" H-377)

An Act to Create a Cause of Action Against the State for Wrongful Imprisonment (H.P. 171) (L.D. 205) (C. "A" H-387)

An Act to Provide for State Research Grants (H.P. 707) (L.D. 1017) (S. "A" S-268 to C. "A" H-297)

An Act to Improve the Administration of General Assistance (H.P. 916) (L.D. 1309) (C. "A" H-384)

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

An Act Relating to the Authority of Medical Service Organizations and Nonprofit Hospitals to make Incidental Indemnity Payments (H.P. 1129) (L.D. 1636)

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

On motion of Representative Higgins of Portland, was referred to the Committee on Taxation.

Sent up for concurrence.

RESOLVE, Authorizing Colwell Construction Company, Incorporated, to Bring a Civil Action Against the State of Maine (S.P. 550) (L.D. 1467) (C. "A" S-242)

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

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am on the Minority Report on this bill. I oppose the bill. The amendment is actually the bill from the committee. I am going to read you the Statement of Fact first. Pursuant to a letter of intent, Colwell Construction Company, Incorporated, performed construction work for the military bureau. The work included rehabilitation of the Pine Tree Inn which was damaged by fire. The Pine Tree Inn was owned by the state. Colwell Construction Company, Inc., started work on the rehabilitation and continued work until ordered to stop by the state. The rest of the work was put out to bid and Colwell Construction Company, Inc., low bidder, was awarded the contract and completed the work.

Colwell Construction Company, Inc., and the state are now disagreeing on the amount the Colwell Construction Company, Inc., is owed by the state for the work performed prior to the stop work order. This amendment allows Colwell Construction Company, Inc., to initiate binding arbitration under the Maine State Revised Statutes, Title 5, Section 1749, to determine the value of the work performed.

I would like to explain what happened. They started this job without a contract. Now, you are not supposed to go to work for anybody unless you have a contract. Although they had letters of intent, they went to work and did what was supposed to be the work on one room damaged by fire.

The State stopped the construction, stopped the work, and rebid the work that was left to be done. They came in with a very low bid and were awarded the bid.

Now the problem in this whole thing, as I see it, the state questioned the work that was done

in the first place. Now, I remind you it was one room. The difference that they are arguing about is in the vicinity of \$30,000. Yet, on this bill they are allowed to sue the state for up to \$300,000. The state is willing to negotiate with these people and willing to settle on a lesser amount. I don't think the state, when they question something, should be going to court to settle it.

I have been in the construction business for years and there some discrepancies in that work order and in the amount of money that is being asked for. An example of that is running a chain saw for two weeks at \$25 a day, this type of thing. I looked this order all down through the requests for money. There are many discrepancies, things that I personally would not allow. So, I think it is unfortunate when the state tries to do a good job, the state tries to run a program the way it should be run and run it on the rules of the state, that we allow people to come in here and sue the state and have binding arbitration. So, if they don't go to court and they have an arbitrator come in, the state is forced to go along with that arbitration.

I just wanted you to be aware of what this is. I think it is good news when the state is willing to stand up and take a position on something. I hope you vote against this bill.

The SPEAKER: The Chair recognizes the Representative from Mechanic Falls, Representative Callahan.

Representative CALLAHAN: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Colwell had to leave the other day and he left this information with me. I am neither for or against the bill but I will give you some communication he gave me on this job.

The Representative from Cumberland says no one ever works without a contract. Many times we have even worked for the State of Maine without a contract on emergencies. This was an emergency in the manner that this room held 60 people and they were coming in on a train, it had to be opened soon.

On April 20 of 1982, the Military Bureau sent Colwell a letter of intent which read: "the State of Maine, the Military Bureau, is in receipt of the Maine Insurance Advisory Board of your price of \$185,555 to repair all the damage at the Pine Tree Inn at building No. 346, Bangor International Airport." Then a month later, he got a letter from Rodney Scribner, from the Finance Administration and has directed the Military Bureau to issue a stop work order for the work you are doing for the repair of the fire damaged building, No. 346. All this bill is asking for is arbitration, which is a third party, it is very fair to the state, to the contractor.

Many times a job has been done without a contract. Now this contractor is asking for the money he spent that month between the time he got the notice to start and the time he was stopped, which did not enter into the final contract. I hope I have explained it somewhat.

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

Representative REEVES: Mr. Speaker, Men and Women of the House: I think that the Legal Affairs Committee all agreed that this was a very questionable operation, that many of the costs of Colwell said that they incurred were definitely not authorized by the state and that it was in truth a very questionable situation. The division in the committee report was between saying "Ought Not to Pass" on the bill — no, Colwell cannot sue, they have no recourse, putting out this resolve authorizing binding arbitration under the state statutes, which has to do with binding arbitration regarding contracts between the state and another party, with respect to disputes between the state and contractors doing business with the state, Maine Revised Statutes, Title 5, Section 1749. The Colwell estimate for their

total cost was \$116,759. The state had paid \$30,000 of that. The outstanding amount in dispute, I believe, was another \$86,000. A settlement was offered of another \$30,000 so that the final amount in dispute, is about \$50,000.

The majority of the committee felt that rather than just say no to the Colwell suit that we should authorize binding arbitration with the Attorney General's Office representing the state so that this matter could be settled in a fair and reasonable way. I hope you will support the Majority Report of the committee.

The SPEAKER: The Chair will order a vote. The pending question is final passage. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

49 having voted in the affirmative and 45 in the negative, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

#### **Passed to be Enacted Emergency Measure**

An Act to Improve the Workers' Compensation System and Reform the Rate-making Process (H.P. 1127) (L.D. 1634) (H. "C" H-394)

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

Representative Beaulieu of Portland requested a roll call vote on enactment.

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

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

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I won't prolong this but there was some question on this bill that my committee, the Committee on Human Resources, really wanted to take a look at and we have agreed to a compromise, more or less, that had to deal with the medical areas and the compromise has been that when the Committee on Labor looks at the medical areas that three members of our committee will be allowed, like we are on Appropriations, to sit in with the discussions on that. Therefore, we would not be putting an amendment on this yesterday. So, I just wanted to put that on the record.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Along the same line as Representative Manning, I have questions about Section 50 where the Labor Committee, which will be comprised of five members, will be studying the medical costs. I, for one, have a feeling that next time around, it will be suggested that the injured employee pay for his own medical costs. I know that, on the average, the employers insurance part of it, the medical cost comprises about two thirds, which is 66 percent of the cost. What are we going to do? Are we going to suggest to lower the cost? Are we going to suggest that the employees pick up the cost?

I cannot envision the Labor Committee suggesting that the doctors and the hospitals lower their costs because a person has been injured. I cannot see any other thing than probably having cost sharing for the employees to pay a part of it. I cannot see anything really positive coming out of this section for the employee.

I would like to have somebody please explain to me how this could come out in a positive

action for the employees.

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

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: While I cannot discount the fact that there would be some discussion along the lines that Representative McHenry has indicated, I do not believe that we would support anything of that nature. But then again, you can't count on anything around here.

I think the intent of the committee is to look at the issues that have been raised through public hearings and with the advocates of some who believe that we need to look at the medical costs concerning Workers' Compensation.

In the past three years, there has been something like a 700 percent increase in those costs. We want to look at issues like insurance companies and employers sending in employees to twelve different doctors. We want to look at the issue of why doctors are not showing up at Workers' Comp hearings when they rightfully need to be there and keep delaying the process so that the injured employees are not getting their remedies on time.

We need to try to understand why it is that one lawyer will secure a medical report from the physician and be charged \$75 for that occurrence and another lawyer, if there is a shift of lawyers, the other lawyer gets charged \$75 and he gets the same report, only the lawyers name has been changed on it. Why do insurance companies pay that which increases the cost? Those are the kinds of issues that have been raised all along in our committee as increased costs that cannot be justified. Those are the things that we want to look at.

I cannot stand before you, Representative McHenry, and tell you that there will be no discussion on the issue that you have just raised. I would be at fault if I did that. But I think there are enough of us here who would not subscribe to that ideology whatsoever.

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

Representative CONNOLLY: Mr. Speaker and Members of the House: I, for one, at least intend to vote no on the roll call of enactment of this bill. The Workers' Compensation train is rolling, it is steaming down the track, the railroad is moving. It is clear from yesterday that the skids are greased and that this package, this so called Workers' Comp. Reform package will be passed by the legislature today or tomorrow.

I feel a certain futility in rising to speak today but I believe that we can't let this bill be enacted without certain remarks being put into the record.

Governor Brennan, my Governor, the fellow that I see as perhaps the chief architect of this whole reform movement and the insurance industry and the corporate community, in my opinion, have taken supreme advantage of a very conservative political climate in this state to denigrate the working men and women of the State of Maine and have used blue collar workers as the scapegoat for all the ills that are associated with Workers' Comp.

When you cut away all the rhetoric and all the phony baloney that is associated with this issue, you find that from the Governor and the business community and the insurance community points of view that there really are two issues, one is a legitimate issue in my opinion and that is the high cost of Workers' Comp. premiums to business.

The second issue, which I think is an illegitimate issue, is the greed for profits that exists within the insurance industry. You need only to witness the fact that in the last three to four years the insurance industry has consistently tried to get the Bureau of Insurance

to increase their rates. They have been denied. The primary reason for their being denied those increases is because they would not tell anybody how much profit they were making because they didn't want anybody to know.

I think the essence of this package is to put into statute a system of rewards and guaranteed profit for the insurance industry to give the appearance that there will be reduced costs for businesses. I think that, over the long haul, particularly for small businesses, that that will turn out not to be true.

The final essence of this package is really, in my opinion, to punish workers, particularly blue collar workers, by taking away certain benefits and to take away certain legal protections that the legislature has built up over the years to protect the injured worker.

I thank God for people like Representative Beaulieu and a few others because I think that this bill does harm to the workers. If it wasn't for her efforts and the efforts of a very small group of other people, I think the damage could have been much more considerable than it will be.

To those of us who are not knowledgeable about all the specific details that are contained in this bill, you only needed to be here last night after everything was completed in the other body, be in the hallway to look at the faces of the various players involved, to see who was really going to be helped and hurt by this package.

Certain members of the loyal opposition had looks of glee on their face because of what happened yesterday. To my friends in the labor movement and also some members of my party, some who voted against or for some members of my party, some who voted against or for certain amendments, there was a real look of agony on their faces. It was real interesting to see the chief lobbyist for the Chamber of Commerce, at one point during the debate, crawl on his knees in the Senate Chamber and tug at the coattails of the Senate Chairman of the Labor Committee to make sure that he made the right motion on this bill. I found that to be a very illustrious thing. For those of you who were there last night, it was certainly extraordinary.

Much has been made by speakers in committee and in the press about how this thing doesn't work the way that everybody hopes that it will work, that we can, in a year or two or three years down the road, make some changes. I just wanted to point out that if this bill does go into effect on July 1st, those workers who happen to get injured between July 1 and whatever time any changes will be made, will still have to live under the provisions of this law because I don't think that you can make any Workers' Comp changes retroactive to help the people who got hurt prior to any changes that we might make down the road.

This issue has created deep divisions within my political party. Those divisions may be permanent. I consider myself to be a labor Democrat. I hope that I always have that particular point of view. I am sad with the fact that this legislation will pass and has been advocated for my Democratic Governor.

To my friends, to my brothers and sisters in the labor movement, I just want to offer one piece of advice, seize the time, organize and do it with a passion and make sure that whatever results from that organization, you use it at the ballot box next year.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I understand the reality of what is going to happen here today on this bill so I am going to be very brief. I am very saddened here today to be standing in front of you regarding the rights of the Maine workers of this state. I think Representative

Connolly has hit the nail on the head and he did a superb job on his presentation.

Before I got elected to come down here, I served 12 years representing the workers of my force in Millinocket at Great Northern Paper Company, so I think I have a great deal of knowledge of what we are talking about here today on the Workers' Comp issue. I went through both these packages that I have on my desk and the more I read them, the more I weep for the worker of the State of Maine.

If we take a look at what the package that the Business and Commerce put out, I can foresee what is going to happen here in three more years, the ones that are wearing the lapel labels on their jackets, whatever they may be, are going to be changing their viewpoints in a couple of more years. I can foresee this an increase of 18 percent for the insurance company. There is no question in my mind that the worker is going to be taking it and taking it the hardest three years down the road.

I saw a lot of injured workers in the 12 years that I represented the workers at Great Northern Paper Company. Time and time again, a lot of them are out for a long period of time, not collecting a cent. We had one down here lobbying the last couple of days who was out of work for nearly a year and never got a penny, never got one cent. He is still fighting the system.

I understand a lot of work went into this package, a lot of hard hours, a lot of long hours, a lot of tears, as was said by the Representative from Portland, Representative Beaulieu. I think the tears are going to be shown once this has taken effect in July. A lot of working people out there are going to be hurt and hurt dearly. We have nobody to blame but ourselves when this vote is taken here today.

I think when you take this vote, really deep down inside, if there wasn't a roll call, you may not be voting the way you are now.

It is really emotional for me because I have to go back and work in these mills when I am not wearing a suit down here six months or three months out of the year. I know what it is like to work on a paper machine when the temperature is about 350 to 360 degrees. I haven't seen anyone want to fall into a paper machine to receive \$400 a month, knowing they could be killed, just to receive Workers' Comp. I admit to you today there are people out there that may abuse the system, but you are going to be hurting more than those abusing the system by passing this bill. There are a lot of legitimate people out there that do get hurt, that need our help and we are here today in a body that is not going to be helping the majority of the people, I can tell you that right now.

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

Representative BAKER: Mr. Speaker, Men and Women of the House: My friend Representative Connolly described himself as a labor Democrat and I would describe myself a social Democrat.

The reason that I cannot support the package is because I feel that the package is being presented, not within a vacuum because the actions we take here do not take place within a political vacuum, but it is taking place against a background of industry asking workers in this state and all across the county for wage reductions.

It is now a trend within collective bargaining to come to the table and present a package to workers — how much are you willing to reduce your wages by? If we tie or freeze the benefit levels of Maine workers to the average wage within the state and workers in large industries are forced to make wage concessions, then the average wage that we calculate our benefit levels from, will be reduced.

The iron heel is grinding itself into the back

of the American working class. That is what we are faced with.

If this were a simple compromise — we are asked to give up something in exchange for getting some thing else, I might go along. But my great fear is that after this package is passed, two years from now, industry will come in and tell us that the business climate is still bad, we need to make further concessions from the workers and their benefits and we have got to do this in the name of jobs. The business climate is not something that you can objectively measure like weather. The business climate is determined by businesses. If they want to say the climate is bad, they say the climate is bad. I find it interesting that yesterday a study was released dropping Maine's business climate. It was released interestingly enough the very same day that we were about to take up the Workers' Compensation debate. One of the causes that this out-of-state firm gave for Maine's drop in the business climate was that there is an increase in union membership. Now, are we to then further the cause of breaking up unions so that we can better our business climate? Free trade unions are an essential component of our democracy. I might add that perhaps the increasing union membership may have come to an expansion of Bath Iron Works, an industry that this legislature has helped out. In fact, this legislature has many cases on record, been very generous to specific industries when they have come here asking for certain needs. I would think that would be a positive factor in the business climate. But no, the same people come back to us and tell us the business climate is bad, we need more concessions from the workers, and more concessions from the workers.

When I ran, I said that I was not in favor of reducing benefit levels. It is one of these things that I ran on and said that I was going to in principle vote on. That is why I cannot support this study.

It is my hope that some time we will be able to take a much clearer look at some of these issues and realize that it is the safety, the health and safety standards of the workplace, that are the major cause of industrial accidents. These are the things that we, as a body, should give top priority to. More and more, we are finding out the hazards of the workplace, the chemical hazards, the industrial hazards. Every day we make new discoveries to the environment that we are subjecting our workers to. We do not address these questions and we do not address these problems and the American worker will become an endangered species.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to address the Representative from Madawaska, Representative McHenry. The medical cost containment study that he referred to is something that the committee would like to look into in reference to hospital cost containment. We do not say and we do not imply that doctors or medical benefits are the direct result of any physician in this state. I think that Representative Beaulieu explained it very well. There has been a 700 percent increase and the 12 different doctors that people were sent to, were sent, not by the doctors, but by the insurance company.

To address the remarks of the Representatives from Portland, Connolly and Baker, rest assured of one thing that the Labor Committee has not in any way addressed or tried to take advantage of any blue collar workers. They are not scapegoats. Our concern is to promote a fair equitable industrial market. We have incentives to replace our injured workers who now cannot be replaced.

We also have in our legislation work placement. We have rate categorization through the insurance plan and the biggest thing is small

business, they are dying because they cannot afford the pool. Bath Iron Works is self-insured. Permanent impairment, we have addressed. We have safety in our package. We have loans to promote safety. All of these things should address the problems and increase our work for our blue collar workers and anyone else. I, too, have worked in industry, I don't now. I serve full-time as a legislator and then in the municipal level but I, too, have served with no representation except myself. I realize what they are working under. I worked 10 years in a dress factory. We call it the garment industry because it is more attractive on our flyers when we run for reelection but I worked in a dress factory and, in 10 years, I never made \$3,000 gross, but I did not feel that it was unfair, I did not feel that it was unequitable, I did not feel that I could not speak for myself. I did not feel that I had to pay for someone to represent me. I represented myself and perhaps a lot of other people that I have been acquainted with during that 10 year period. I tell you now that we are not out to get the blue collar worker or any workers, we are very concerned with the overall work market 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: I have to get up here even though this is my second time this week because of the fact that I am a cosponsor of this redraft of L.D. 1634 and also serving on the Speaker's select committee on Workers' Comp on rehabilitation along with Representative Joseph and Representative Swazey. We spent many long hours on that during 1984 to get a good draft on that.

For the first time, this legislature will establish clear public policy, which will make it substantially more profitable for employers to operate safe work places rather than unsafe ones. I know what I mean by that statement. For the first time we will guarantee that the small businesses will be able to benefit financially from their own good safety records. For the first time, small businesses formerly placed in the assigned risks will no longer be providing a direct subsidy to the larger employers with bad safety records.

I want to emphasize that this legislation is a compromise in the truest and best sense of the word. It addresses broad issues of public policy in a manner that is clearly in the best interest of all the people of the State of Maine. It makes Workers' Compensation insurance pricing more fair and more competitive and I know what I speak of because, in 36 years in retailing, having 13 stores with over 600 employees, I know what the problems are. I am pretty sure that as a supervisor my employees felt that I did the best and gave them, let's say, good benefits.

This legislation is a product of hours and hours of deliberations in committee which was reported out unanimously. I commend Representative Beaulieu and her committee for the hours and the hard work that they did. It is part of what I consider to be the most far reaching and comprehensive Workers' Compensation reform legislation proposed in recent history. It follows and is compatible with reforms enacted by the legislature two years ago. Yes, I will agree that there are parts of this bill that I object to and I know that there are parts that are of concern to every member of the committee but it is a compromise and that is what we have got to do. Nobody got everything that they wanted and everybody got some things that they object to. Everybody gave a bit to get an agreement on the broad side of legislation that will benefit all our people.

I know previously when I got up this week and spoke, I asked for your support. I appreciate the support that you gave me at that time and I strongly urge all of you to join with

me, and I hope that I will get your support again in favor of this legislation.

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

Representative MICHAUD: Mr. Speaker, Men and Women of the House: First of all, I would like to thank Representative Beaulieu for the work that she has done on this package. I realize that without her help that that terrible bill our Governor has put in, probably would be the one that we will be voting on today. I, too, work in the mill and I have a constituent who got in touch with me about a year ago and his concern, at that time, was that he was being jerked around by the company and the lawyers on his Workers' Comp case. He had to sell the land that he owned and his house is up for sale. There has been a lot said about the maximum benefit but the way this bill is written, some employees can receive two-thirds of their pay but the employees that I represent and that Representative Clark represents and a few other legislators here, cannot receive two-thirds of their pay.

I also work on a credit committee in East Millinocket. They make payments, their payments are high, the area I come from, things are probably a lot higher than some other areas of the state, and this legislation is going to hurt them. Years ago, it was industry that wanted to have Workers' Comp. so the employee would not be able to sue them. Well, they got what they wanted, they got Workers' Comp. Now, they are back here again, and now they want to take it away.

I stayed here last night and I heard the debate that went on and Representative Connolly is 100 percent correct, it was disgusting.

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

There has been a lot said about the savings that this is going to save — is there any guarantee in this bill that if the insurance companies save any money that that is going to be passed directly to the company?

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

The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would reply in the affirmative, that there is a provision provided in the Business and Commerce amendment that came in, which clearly indicates that 8 percent savings will be passed on to the employer. Of course, this is taken care of too down through the line so that never, I hope, ever be an opportunity where the insurance companies can take full advantage of what the employer does in the interest of savings.

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

Representative SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: I have been sitting here listening to some of my good friends, Representatives Connolly, Baker, Clark and Michaud talking about the working man and how this bill was going to hurt the working man. Well, I am a blue collar worker, I have been one all my life and there is nothing that I would like better than to make the money the good gentleman, Mr. Clark, makes in that mill. I would be as happy as could be if I could make that. I invite him, complaining about the heat, to come down to the shipyard with me and work outside when it is 10 below with bare hands and steel tools for \$4.50 an hour and tell me that that is not a blue collar worker.

A couple of weeks ago, I announced here very proudly that we were launching a dragger. We did, I worked on that boat for two years, so did 11 other people — that boat was the last boat the R.L. Wallace & Sons Shipyard

is ever going to launch. That yard is on the market. Why is it on the market? Because its fixed costs are so high that we can't compete with other states. I was just offered a job in Maryland for \$50.00 a day, living expenses and \$12.00 an hour to go down and caulk a boat. Sit and look at it. The overhead in Maine is so high, he can't afford to pay me \$4.50. I can go someplace else and get \$12.00 an hour. There are 11 people that no longer have a job because the Workers' Comp. is so high in our sawmill and in our boatyard, even though in the 8 years that I have worked in that boatyard on and off we haven't had one accident. The cost is so high that that yard is going out of business. Now, I hear the gentlemen from the mills complaining about losing a benefit or having a maximum benefit lowered — my maximum benefit is my job and I just lost it. All I am asking you people to do is approve this package so maybe, just maybe, there will be another job for me when I get out of here because if I don't have it, I don't eat.

I would sincerely hope that you would support this package so at least some of us can keep on working and keep on feeding our families.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: There is no question that every one of us has a great sensitivity to the points that have been raised on both sides of the aisle and by many members on all ends of the political spectrum on this issue. I think that the points that were made by Representatives Connolly, Baker, Clark, Michaud, Beaulieu and Scarpino have some merit to it but I would hate for us to get caught up in the rhetoric of what is being said today and lose sight of our overall objective and that is approving a plan, a compromise that has been worked out over many months, that addresses a very serious and a very legitimate concern, a concern that the Workers' Compensation system in Maine is having a detrimental effect, not just on business, not just on labor, but on the state as a whole. It was a tough thing for the committee to do. I should say the committees to do, because there are so many aspects, so many facets to this particular plan that we are being asked to enact today, so complicated that it is remarkable that they were able to put together a package that is so comprehensive and does adequately and fairly address the overall concerns that we have been asked to deal with. I don't know of a single member in this body who feels totally comfortable with the position or the package itself. There is some item that each and every one of us finds objectionable but I think overall, we look at the plan and we say that it is the best that can be done, it is the fairest program we can put forth and, because of that, I think that we have to look at the bigger picture, we cannot allow ourselves today to get hung up on our individual concerns but look at our overall responsibilities for the people of this state, both the working people and the business people, but most importantly, the citizens of this state.

What does this package mean for the people of Maine? It means that it is going to enhance our business climate; it means that it is going to protect workers and their ability to work and go back to work if they are injured on the job, it puts in place a fair system to deal with those injuries that do take place in the work place. We can argue all we want to, whether or not it goes to an extreme in one sense or another, but again the question is, is the plan before us deserving of our support? I certainly believe that it is and I ask for your support for it.

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

Representative MURPHY: Mr. Speaker, Men

and Women of the House: I rise to agree with my good friend, the gentleman from Bangor. There is an image or perception out among the general public that, at this place on the Kennebec, that the process is stalemated by partisan politics, that the process is stalemated by the interests of the special interests. And I think, during the last two months, as we watched the Labor Committee work, during the last two months that we watched the Business and Commerce Committee work, we have seen that there can be balanced resolutions to problems that face this state. I think by the actions of those two committees, by the actions of the two bodies today, we will have brought forth a proposal that brings liberal and conservative together, labor and management, and the legislative and the executive branches.

The SPEAKER: The Chair recognizes the Representative from Baileyville, Representative Tammaro.

Representative TAMMARO: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am a member of that Labor Committee. I, too, am a former member of Labor but I honestly believe that this bill, reform bill, is a step in the right direction. Everything wasn't perfect and everything wasn't easy. In spite of the frustrations, and tears and the flared tempers, at least we had common sense enough to sit down when the tempers were flaring and when we got done arguing and bickering, we sat down and let cool heads and common sense prevail. Now, I am not 100 percent in favor of this bill but I haven't heard any of the previous speakers say anything about jobs. Now, I had some union presidents from my hometown up here the other day, fellows that I worked with, born and brought up with, they had good points but they only worried about one thing — they have got jobs, they have got good jobs. What about the fellows that are walking the streets, the young men and women that need jobs? I see them every day asking, what can you do to help me get a job?

Another thing, labor movement don't want to believe this but I know it for a fact, that the Georgia-Pacific Corporation lost a \$200 million dollar paper machine, moved it to Port Hudson, Louisiana last September. We thought we were going to get a new paper machine — what would that have done for our families and our friends? I have six working under this very same thing that I voted on, six of my family, they have to live by my vote, we all have to live by it.

This, my friends, is a step in the right direction. Jobs are what I am thinking about. Jobs. It is all right in the Portland area, I suppose. If you don't get a job here, you will go elsewhere, but down in my area, if there is no job there, you will sit in the streets and draw unemployment or you might, if you are lucky, get a job in the sardine factory or you might even go rake blueberries. So I am telling you, ladies and gentlemen, I can look my people in the face, I don't care, I am not worried, not one bit about whether I come back here or whether I don't. I call it, ladies and gentlemen, just as I see it and I hope you will support this bill because we worked hard like I told you. Common sense prevailed in this package and it wasn't easy.

At this point, the Representative from Bangor, Representative Diamond, assumed the Chair to act as Speaker pro tem.

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

Representative MARTIN: Mr. Speaker, Members of the House: This issue, Workers' Comp. is one which, rightly or wrongly, has become rather close to me and more importantly, I suppose, to my office in the last four or five years. A number of years ago, before the rates started going up, what I knew about Workers' Comp. was very little and when I received my bill from the insurance carrier for

Workers' Comp., I paid it and didn't worry too much about it either but like everyone else in this state, as the rates started to go up, we knew that something was wrong but we really didn't know for sure what was wrong.

You may remember, those of you who were in the previous legislature, what we tried to do. As a matter of fact, you can actually go back to two legislatures and, at the end of that legislative session, I appointed a group of people to serve for better than three years to put together a piece of legislation which the Labor Committee enacted during the last session. We enacted, for those of us who were here, a piece of legislation which went a long way in reforming the system internally and most of you know what those changes were and what they are. The result of that legislation, which was cosponsored by one member who is still here, the Representative from Lewiston, Representative Telow and the Representative from Waterville, Representative Joseph. We put together that piece of legislation with the legislatures help and the Labor Committee, which resulted in immediate savings. The irony of that legislation was that it resulted in savings only to those who are self-insured and to the groups. Those people who were covered by insurance carriers received no cuts in their premiums because the system didn't allow it. So, the insurance carriers continued to receive whatever savings we had managed to accomplish. BIW, for example alone, during the one year since it has been in effect, fiscal year 1984, were able to save \$350,000 in attorney fees alone under the new legislation. One of the groups of which I am involved in, Northern Logging, which primarily deals with one of the toughest areas of the state, the logging industry, have been able to cut their costs by better than 20 percent. We knew that by making some of those changes we could improve and we could cut costs. We also knew, at that time, that we had to do more and that committee, which was chaired by a labor union executive and by a member of the private sector, put together and continued to work for a piece of legislation which is in this bill this very day. It is rehabilitation.

I have not met any worker who wants to be injured and if there are no injuries, we don't need Workers' Comp. and we won't have to worry about the average work week's minimum or maximum. If there is no injury, there will be no payment but if there is going to be injury, the second most important thing is to get that person back to work as quickly as possible. Our rehabilitation system in the state, quite frankly, is one of the worst.

The piece of legislation that you have before you, which the Labor Committee worked long and hard on, came out of what was called 'the Speaker's Committee or the Mallar Committee' or whatever name you want to give it. That particular rehabilitation program, which has been redone by the Labor Committee, in my opinion, has the potential down the road of saving as much as 20 percent toward the cost of Workers' Comp.

Tuesday evening, the Representative from Madawaska, Representative McHenry, Senator Violette and myself, went to Fraser Paper Company where they have managed, with employee/employer cooperation and participation, had 365 days and 2 million work hours of injury free, no lost time. That members of the House is how to achieve savings in Workers' Comp. and that company, who is self-insured, has done just that. It was done with employees, who do not want to be injured and who wanted to continue to work.

I happen to agree that some of the material which was contained in the Governor's Bill would have hurt employees of this state. I made that, I think, quite clear at the beginning. I made it clear through the discussions that we had with the Labor Committee and I believe that many of those have been rejected by this

committee in a compromise attempt to get to this package. There is no question that everything that is now under my name and the bill that I put in is not everything that I want but, in my opinion, it is the step forward. For example, the abuse problem, on either side, is one that is going to be addressed. There is no one that I know, whether they be in the mill as an employee or they be the employer themselves, who wants to continue to pay for the worker that is receiving fraudulently. I have never met anyone who did want to pay for that and this legislation makes an attempt to get to those people who abuse the system. You and I have been here long enough to know that there are abusers in anything and everything. As a matter of fact, from time to time, there are some of us in this legislature who might abuse a few things in the process but you need to be there somewhat as a school teacher to make sure that the person is reprimanded appropriately and that the person doesn't walk on the floor of the legislature with a cup of coffee or that the worker has to be at work on time or that management fulfills its responsibility as an employer. I think this legislation provides for that. So, even though it is a tough issue, even though it is a tough vote this morning, and even though it is not everything that I want, everything that you want, it is my personal opinion that what you have before you is the best that we could do as a legislature, as members of my own political party and also a member of the Republican party on the other side of the aisle. It is a fair effort. That is not to say, however, that we must not continue, because we got into this mess, ladies and gentlemen, because we failed to look at the problem over time. We ignored it because it didn't cost anything. What we have to do is continue to monitor and to watch and to make sure that what we have in this legislation is going to work.

One of the things that I have been most adamant about is whatever benefits we provide be the best that we can afford.

Second, what those people, covered by carriers, those employers pay, we need to make sure that the employers only pay for what they ought to pay for and that we ought not to be thrown into national pools to figure out rates. The monies generated from investments of the insurance carriers should be put into the proper accounts in Maine so that reflects in rate reduction. Those are the kinds of things, quite frankly, in the three last rate cases filed by the insurance carriers, that they could not meet. Three rates cases in which I intervened as an employer and as your representative and all three were denied. We will continue and we must continue to monitor the insurance carriers, not because they are going to steal money, but because they are out there to make a profit like every other corporation that I know and wants to make the best profit that they can and in this country that is not a sin. What we need to do, however, is to balance that and to make sure that they don't take more than they ought to. We have that system in place as a result of the work of the Business and Commerce Committee and it is my opinion that we accomplished that. That is not to say that it is all going to work, we may be back in January making some adjustments to various sections but I have never yet seen a piece of legislation enacted by this legislature or previous legislatures which didn't need to be corrected. If you will look at the legislation that flows through this legislative process, better than four-fifths of all legislation is to correct the actions of previous legislatures and previous legislators. Of course not you and I, because we are perfect. There won't be any problems with this but I want you to remember that we need to continue to monitor.

For those people who are in the work force, who believe that they have been sold down the river, I want to say to them that I do not believe

that to be the case. If, in the years that remain of my own life in politics there is an injustice, I will try to do whatever I can, as I know other members of the legislature will, to make sure that those injustices are corrected.

So finally, I would ask you to vote, perhaps with a heavy heart, as the Representative from Portland via Eagle Lake would say, perhaps somewhat queasy, knowing that it is not the best thing but knowing today it is the right thing.

At this point, Speaker Martin resumed the Chair.

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

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: My name has been mentioned more than once here and I appreciate the notes saying thank you, if you hadn't been there, they might have gotten hurt a little more. I don't deserve any thank yous. The position that I am in today is that I lost, it is that simple. I never thought, after 10 years of participation in this body and 25 years of involvement in my city, city and state level, that I would see the day when benefit cuts would wind up as the mechanism to deal with the real issues out there, which are safety on the job, returning injured workers back to work as fast as possible, and to make sure that insurance companies dealt fairly with Maine employers. But that is what happened and that is where we are today. I did not support my Governor's package and I think, for as long as I live, I will never ever feel comfortable on that one issue, that he put in such a package. I love my Governor and I work for him as hard as I can but this issue, he and I are at odds. I supported the Speaker's package and I would like to remind everybody here that his package did not provide for a raise on benefits to workers. It addressed the real issues, rehab, return to work, fairness in the insurance field, a request to look at medical costs.

The other package that came from the other body, under Senator Pray's name, a plan to help small employers to help them to make sure that they provided a safe work place. If you want to know how important a safe work place is, I hope you all read about the action I took on the people who were working on this State House, who didn't even know that there were safety rules to be followed and to think that this lady from Portland via Eagle Lake had to be the one to call OSHA and have them come and put stoppage on what was happening on the Capitol building of the State of Maine because that contractor did not pay attention to safety rules. Those are the real issues and the problem in Workers' Comp. I feel bad about the benefits that we had to strip from the people in this package before you and I fought with everything that I had and, for those of you who have known me for years, I fight dirty, but I lost.

It is, indeed, possible that the business community and the insurance community will be back at you in the next session to do more. I am not going to be here but I will tell you one thing that there is always going to be a hope that for those who do come after me and when they do try to do that again, that you will have the courage to say, no more.

I urge this package to be adopted, I have no alternative.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I want, first of all, to say that I do respect and I do thank everyone that did work on this package though I don't agree with them. The problems that we have, problems of self-insurers, I am proud to work for a self-insurer which is Fraser Paper Limited. Six years ago, I did say if a person has cancer, you don't cut off his leg if he

has cancer in the hand, we tend not to look at the problem, the problem is really and truly safety. What incentive do employers have with the system that we have to provide a safe work place. If I were an employer with five employees, and the business across the street is exactly the same as my business, I provide all the safety that I can afford and I want my employees to have a safe work place and the average employer in the same business says: what the heck do I care? I am still going to have to pay those premiums. That is part of the big problem that we have.

When an employee gets injured in the work place, the employer has paid premium dollars for that employee, I assure you, ladies and gentlemen, he wants his employee to get that money. For example, you have homeowners insurance, if you had put money in the bank rather than have an insurance premium and a person gets injured on your property, I assure you that you would be a heck of a lot more careful. You wouldn't say, "hey Joe, go to the hospital, I will pay the bill." But if you had homeowners, you don't care, you say, go to the hospital, it will be paid for. That is one of the big problems that we have. As I have stated before, safety, safety, safety is the answer to the problem. I honestly believe that. I am proud to work for Fraser, I have been there 25 years and I assure you, ladies and gentlemen, it is not something that you come up with in a few days or a few years to have honest cooperation with the employees and the employers. It is a hard, hard road to bring people to really and honestly believe in each other and trust each other. We have attained that at Fraser but what does my employer get for attaining this? Almost zilch, nothing really. He does because he is self-insured but I assure you if he was not self-insured, he would get zilch, nothing. What happens when an employee gets hurt, say a young man about 30 or a young lady receives a back injury and is no longer able to work, what does the insurance company do? They set aside an amount of money because this person is paralyzed from the hips down, can't work, will never be able to work. Now, the insurance company sets aside maybe a million dollars or a million and a half, depending upon what his life expectancy is, they take that right out of the fund. I asked the insurance company, what happens to that money when that employee, should he or she die a year or two later? You know you have a million or a million and a half invested and you claimed this as a loss in your insurance on Workers' Comp? Does it return to the Workers' Comp? I assure you that it does not. I have a pretty good idea where it goes.

What qualifications do I have to speak on this issue? I have been on the Labor Committee 8 years and I think I know what goes on with Workers' Comp. I have very mixed feelings. I wish I could support this but I will have to vote no on it. Having a great employer like mine, but being a politician, knowing the feeling of people, I cannot honestly get up here and say I am a true Representative of my constituents if I were to vote for this. I cannot in all honesty.

As the gentleman on the second floor said, when he ran his last campaign, he wanted to make sure that the people of Maine trust their politicians — well, I assure you, ladies and gentlemen, for whatever reasons, has made an about face, in my opinion.

I am just a worker, an average person, and I listen to the people on the street. Every week I am up home and I hear what they are saying and I am one of those people that really defended the Governor. I went to bat for him and I even told my employees, my coworkers — I said, there is one thing you can be sure of, if you vote for a Democratic Governor, you are voting for a Governor that will never, ever veto a bill that is good for the workers and he will never sign a bill that would hurt the working people. I will tell you, ladies and gentlemen of

the House, I have to say that I was completely and totally wrong. My philosophy is, whatever happens, it is for the best and I hope whatever happens, it will be for the best, we get what we deserve.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: First of all, I want to tell you what a pleasure it has been for me to serve on the Labor Committee under the leadership of Representative Beaulieu. I can't be quite as eloquent as she has been and is and I know how hard she has worked and how difficult the process has been for 13 members of this particular committee.

It concerns me a great deal that some people of my own party question any of our motives or our party affiliation or our backgrounds. I understood, as a very little girl, that the American way was of hard work to be successful and not to stand still. I personally resent the implications that people supporting this piece of legislation are not in sympathy with those people who do work in the State of Maine. All of us on the Labor Committee, I believe, are very concerned about the workers of the State of Maine and, as a Democrat, we are proud to offer you continued reform of the Workers' Compensation system of Maine. No one is comfortable making adjustments in benefits but our Maine Workers' Compensation, through the years, has become I would say, complex, to be kind, with layer upon layer of bad legislation, some bad rules, some bad regulations.

This piece of legislation that we are proposing today includes safety. We all agree safety is the most important part of a work place where anyone who spends 8, 10 or 12 hours a day. It represents the hard work of the Speaker's Select Committee on Rehabilitation — yes I know, it is not mandatory, it perhaps should have been and perhaps will be but it is a good system where employees, who are injured, will begin to lead productive lives again and not get into the nonwork mentality of nonwork habits. It is harmful to them and to their families. It does include parts of Governor Brennan's bill. It would introduce and actually put our system in line with the systems throughout the country so that Maine can be competitive, to get good jobs for our Maine workers above the minimum wage level. Good jobs and lasting jobs. So the idea here is not to air our personal grievances but to pass a reform for the Workers' Compensation system in the State of Maine.

We all know about compromise. We all know about negotiations and we all know about agreement. I urge you to give your overwhelming support, whether you have to hold your nose, whether your finger trembles to push the red button but give the workers a chance in the State of Maine and let Maine be competitive with the other states of this country.

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

The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, pursuant to Joint Rule 19, I wish to be excused from voting.

The SPEAKER: The Chair will grant that request.

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

#### ROLL CALL No. 184

YEAS:—Aliberti, Allen, Armstrong, Baker, A.L.; Beaulieu, Begley, Bell, Bonney, Bost, Bott Boutillier, Bragg, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carroll, Coles, Connors, Cooper, Cote, Crouse, Crowley,

Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Farnum, Foss, Foster, Greenlaw, Gwadosky, Hale, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McGowan, McPherson, McSweeney, Melendy, Michael, Mills, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, O'Gara, Paradis, E.J.; Parent, Paul, Perry, Pines, Pouliot, Racine, Randall, Rice, Richard, Ridley, Rioux, Roberts, Rolde, Rotondi, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammara, Tardy, Taylor, Telow, Vose, Walker, Warren, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

**NAYS:**—Baker, H.R.; Cashman, Chonko, Clark, Connolly, Handy, Higgins, H.C.; Lacroix, McCollister, McHenry, Michaud, Mitchell, Paradis, P.E.; Priest, Reeves, Theriault.

**ABSENT:**—Brodeur, Duffy, Kane, Nickerson, Ruhlin.

**EXCUSED:**—Carter.

129 having voted in the affirmative and 16 in the negative with 5 being absent and 1 excused, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

#### **Reports of Committees Ought to Pass as Amended**

Representative HIGGINS from the Committee on Taxation on Bill "An Act to Change the Sales Tax Exemption for Property Purchased Outside the State" (H.P. 24) (L.D. 22) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-401)

Report was read and accepted and the Bill read once.

Committee Amendment "A" (H-401) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (H-401) 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. 452) (L.D. 725) Bill "An Act to Initiate Agricultural Technology Transfer and Special Project Programs" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-400)

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.

#### **(Off Record Remarks)**

On motion of Representative Martin of Eagle Lake,

Recessed until three-thirty in the afternoon.

#### **(After Recess)**

The House was called to order by the Speaker.

Representative Nickerson of Turner was granted unanimous consent to address the House:

Representative NICKERSON: Mr. Speaker, on Roll Call 184 I was listed as absent, I should be listed as voting yes.

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

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

#### **Passed to Be Engrossed As Amended**

Bill "An Act to Amend the Maine Certificate of Need Act to Require More Timely Decision Making on the Part of the Department of Human Services" (S.P. 214) (L.D. 572) (C. "A" S-270)

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

On motion of Representative Carroll of Gray, the House reconsidered its action whereby Committee Amendment "A" (S-270) was adopted.

The same Representative offered House Amendment "A" (H-402) to Committee Amendment "A" (S-270) and moved its adoption.

House Amendment "A" (H-402) to Committee Amendment "A" (S-270) was read by the Clerk.

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

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: This amendment would take care of Committee Amendment "A" where we would have reconsideration on the Certificate of Need proposals. The current amendment says that there will be no reconsideration whatsoever, that the parties aggrieved by the Department could go directly to court. What this amendment would do, it would allow that same process to take place except in cases where new information was offered or a change in circumstances were to take place. Under those two situations, if the Department's final action found that there was no new information or something had changed the circumstances in which the denial had taken place, reconsideration would take place prior to going to court. Therefore, if a nursing home, for example, is up for a Certificate of Need and was denied, then suddenly a nursing home in that same area closed down, that is a change of circumstances; therefore, reconsideration would take place rather than going to court. The court dockets being as busy and full as they are, I would think that this amendment would allow some projects quicker action and less denial.

I would hope that you would adopt this amendment.

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

Representative NELSON: Mr. Speaker, Ladies and Gentlemen of the House: I urge you not to accept this amendment. This is not keeping in the spirit of what the people on the committee felt that we should be doing. We believe that it is up to the health care facility to determine if they wish to go back to the very arena that initially denied them the request for Certificate of Need or go to an independent body and bring their information to them. Should you accept the amendment, the health facility would not have that option. They would have to go back to the original body, the department, with the same information. This way it allows that facility to have the opportunity to go to an impartial body straight away. It would save lots of time and probably lots of lives.

Mr. Speaker, I move that this amendment be

indefinitely postponed.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Before you people indefinitely postpone this bill, what I really want you to take a real hard look at this and think what Representative Carroll just indicated. If a nursing home was denied Certificate of Need, if this amendment does not go through, the only alternative if another nursing home in that area closed down and they could on reconsideration, would be to go back to the department, but if this passes, they will have to go to court.

The lobbyists of the Maine Medical Association, which represents quite a few of the M.D.'s in this state, said that it takes nine years maybe, I think that is a little exaggerated, but I know that in the Portland area the civil cases are two to three years backed up. What you are forcing the nursing homes and the hospitals of the state to do is to go to court. If they go to court, they will have to be in court for maybe two or three years and the department could perhaps reevaluate this, if we went with this amendment and maybe handle this thing in two or three months time. I think this is a real detriment to the nursing homes and the hospitals of this state. I understand the problems the sponsor had on this but if this amendment doesn't go through, then everything that is being challenged will go right to court. No reconsideration, go right to court. If it goes right to court, it is going to sit on the dockets a lot longer than criminal cases will because naturally criminal cases will go ahead of any civil cases such as this. So, I urge this body to accept Representative Carroll's amendment so the hospitals won't be hurt. I think the hospitals will be hurting on this other thing.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I really take issue with the gentleman from Portland. The intent of the bill is not to force anyone to go to court but to give them the option of not having to go through a reconsideration hearing before they go to court.

Let me tell you why this is important to me — because of a personal experience I had with the York Hospital, we were the first hospital in the state to go through one of these so-called reconsideration hearings. Let me tell you about it. It is sort of like telling you about my operation, only it is a little bit gorier. The background is as follows: the York Hospital applied for a Certificate of Need to have a mobile CAT scanner, not a CAT scanner, not the whole operation but just a mobile unit that would come to our hospital two or three times a week. The reason we had to go under Certificate of Need is because we had to put in a concrete pad that would cost \$19,000. The reason that we wanted to do this was because we had to transport patients to Portsmouth, New Hampshire for CAT scanning, which is an 18-mile round trip in additional cost, additional pain and also having to take our local ambulance out of town almost daily. It certainly made sense to have a mobile CAT scan unit in York two or three times a week. The department fiddled for almost two years on our applications and finally said, no. They said what we should do was take our people to Portland, not to Portsmouth, 18 miles away, but to Portland, 80 miles away. Naturally, since that didn't make any sense, we decided to appeal the decision. We had a lawyer, of course, a very high paid one, but we could not take that case to court under the present law. We had to have one of these so-called reconsideration hearings. When I, as a legislator, heard the word reconsideration I thought of it in the terms that we use where it is another try and an attempt to work

something different out. That is what I thought this kind of hearing would be. Boy, was I naive. The whole problem started when the very person, who denied us, Mr. Gordon Brown, who was then head of the department, wanted to preside over that very hearing. We thought that that was a little bit heavy. Our lawyer protested it and it was finally settled that he would not preside. Someone else in his department would preside. So, we all went to Augusta and there was a young lady from the Department, she was very correct, reminded me very much of probably what the peoples court in Russia is like, all the niceties were followed but the verdict, of course, was already decided. The procedure was impeccable, the justice was nonexistent. Mr. Brown came in and explained to his fellow workers why York people should go 80 miles to Portland and pay even more than the cost of the 18 mile trip to Portsmouth and why we shouldn't be able to save money, wear and tear etc. by having this procedure done at our own hospital. Doctors from York came in and said it would be impossible to send patients to Portland; in fact, they could be sued for malpractice for even doing it. So, this foolishness went on for several hours, everyone was very polite and dignified, the lawyers on both sides discussed all the niceties of procedure, expense was considerable, both for the hospital and the state and we left knowing exactly the answer we would receive, which was - no dice. That was in June. The months went by and no answer was forthcoming. The nice young lady, who had presided, kept telling us that she hadn't closed the case yet. It was not, I believe, until February or March, eight or nine months later, that we were able to get an answer from them. It was, and it was no surprise to us, exactly the same answer we had gotten before, take your people to Portland, which they had already been told was an impossibility. The denial letter was practically identical to the denial letter we had earlier received.

As it turned out, Commissioner Petit makes the final decision. When the recommendation of his staff was brought to him, he overruled it so we did finally get our mobile CAT scan unit. But here were eight to nine months absolutely wasted, eight to nine months of extra pain, expense for the people in Southern York County and expense for the people of Maine. In fact, it cost about an extra \$60,000 a year when we had to keep sending our patients out of state. This was all done in the name of saving money.

Clearly, this reconsideration nonsense is merely a technique of trying to discourage an applicant from appealing a decision to the court, to try to wear them down, and to intimidate them. This particular bill allows the applicant to make that decision themselves. If they want to go to reconsideration, they can do so. There is nothing in the bill that would stop them from doing it. If they don't, they can go straight to court. Their failure to go to reconsideration cannot be used as an argument to deny them relief.

As far as I am concerned, the administration of Certificate of Need in this state is a disaster. In my 18 years in state government, I have never seen a program that is less responsive to the people of Maine and their needs and less cost effective. We are going to be stuck with it for a while longer but I don't see any reason why any other applicant should have to go through the nightmare that the York Hospital went through. The reconsideration process is a farce and a travesty and an unbelievable waste of money and time. I don't want to see it forced on anyone again.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to tell you a sad story. Our committee was

caught in a hurried legislative process where members of our committee signed onto a jacket before they could sit down and read what the amendment said. I believe if you would look at this bill, you would see that I am the only one in the minority. I was the only one who would have liked to have seen the whole thing die. However, when you see someone who has signed the majority bill such as Representative Carroll, who is offering this amendment, he is telling you something. He is telling you that this bill is not what the majority of the members on that committee believed they were signing. So, what I am saying is because we were forced to sign this in order to get this out of committee because of the pressure put on to us by this legislative process, we are caught in a Catch 22.

This morning I debated very heavily against this bill saying that it needed to die. I am not going to continue doing that because I know I don't have the votes but I had to put some of the facts on record. However, I urge you strongly to support the measure that Representative Carroll is trying to put on this bill. It is the only way that it is good for the small hospitals, give them a chance, an opportunity to do either the reconsideration process or go straight to court. I think the straight to court is bad precedent for the hospitals. Talk about adding to costs — but I am not going to try to kill the bill. I urge you to go with Representative Carroll.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I believe that this amendment was introduced by the gentleman in the Department of Human Services. It was initiated by him, it was given to the then sponsor of this amendment and perhaps it was, indeed, the sponsors intent to do this all along but to say that this amendment stemmed from a concern, stemmed from misunderstanding from the committee, is unfair. I hope that you will look at this amendment and understand that the bill, without the amendment, still allows that health facility to choose if they wish to go back to reconsideration or go to court. It doesn't change that, it just makes going to court that much easier if that is the choice of the health facility. I urge you go vote with me for indefinite postponement of this amendment.

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

Representative CARROLL: Mr. Speaker, Men and Women of the House: Just to clarify a couple of points. I offered this amendment because I believe, as we debated this bill in committee, that this is what I thought we were going to come up with. It is not anybody elses fault but my own that there was a misunderstanding.

It was a very confusing bill to start with. It was confusing when suddenly we had it back in committee and no one really seemed to understand where we were going from. That was just a few days ago.

In the current law, you have to have reconsideration for new facts or changed circumstances when the department violates its procedures or any other related reason.

In the sad but very true story that the Representative from York gave us, it is very evident that that reconsideration process was bad. Even if we adopt this amendment, if that situation happened again in York, then the good Representative could go directly to court, he wouldn't have to "pass go," and he wouldn't have to pay \$200 in attorney fees, because that doesn't fall under new facts or changed circumstances. There are only two times we are asking people to go back for reconsideration. If there is something new that either the department has to offer or the denied request of the facility has to offer, then you would have that chance to have that whole case reviewed.

If there is a change of circumstances, as I illustrated before, from either the department or the aggrieved party, then that reconsideration should be given some consideration prior to going to court.

In the other two circumstances, if the department has violated its procedures or if there are any other related reasons why that denial was given, then the party may, if the so choose, have reconsideration or go directly to court. Pretty straight forward approach and I would urge you to support the amendment.

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

Representative WENTWORTH: Mr. Speaker and Members of the House: I would urge you to vote against the amendment and to follow Mr. Rolde's light. His example and story of York is exactly correct.

The SPEAKER: The Chair will order a vote. The pending question is the motion of Representative Nelson of Portland that the House indefinitely postpone House Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

81 having voted in the affirmative and 24 in the negative, the motion did prevail.

Thereupon, Committee Amendment "A" (S-270) was adopted.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that we don't adopt this because I think you will find out now that the committee was misled when this amendment came out.

Representative Carroll was right. Representative Carroll, and I think a few other members of this committee, disagree on how the Committee Amendment really reads right now. I don't think that Representative Nelson is painting the right picture on this because when we discussed this two days ago, it was a complete shock to a lot of us that this bill was coming out in the form that it was.

I would hope that you would vote against Committee Amendment "A" or whatever it is.

I ask for a division.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: In view of all the chaos that has happened, not only in our committee but what is happening here, I urge you at this time to indefinitely postpone the Committee Amendment. I am not going to go through all the details of this morning but I do wish to urge you to vote against it. We are going to have a study this summer on the Certificate of Need and this can be addressed. There were only two possibilities in the last 18 months that could have been affected by this Bill. I urge you to vote against this bill now and let it go to study.

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

Representative KIMBALL: Mr. Speaker, Ladies and Gentlemen of the House: I intend to be very brief. I just wanted to make mention that I feel that what we have here is a certain amount of functional confusion. I understood what I was voting on — we wanted to give those hospitals that were able to apply for Certificate of Need the option of going to court or going to reconsideration. We wanted it to be their option. It was clear from the beginning.

I understand that things can become confused for people but it wasn't confusing for me.

Representative Manning of Portland moved the House indefinitely postpone the bill and all accompanying papers.

The same Representative requested a roll call

vote on the motion.

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

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

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

#### ROLL CALL No. 185

YEAS:—Aliberti, Allen, Beaulieu, Brannigan, Brodeur, Carroll, Coles, Connolly, Cooper, Crouse, Erwin, Handy, Higgins, H.C.; Jalbert, Lacroix, Manning, Martin, H.C.; Mayo, McHenry, Melendy, Mills, Mitchell, Moholland, Nickerson, O'Gara, Paradis, P.E.; Perry, Richard, Ruhlin, Smith, C.B.; Stevens, P.; Swazey, Telow, Theriault, Warren.

NAYS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bost, Bott, Boutilier, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carter, Cashman, Chonko, Clark, Conners, Cote, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Duffy, Farnum, Foss, Foster, Greenlaw, Gwadosky, Hale, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jackson, Jacques, Joseph, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Masterman, Matthews, McCollister, McGowan, McPherson, McSweeney, Michael, Michaud, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Paradis, E.J.; Parent, Pines, Pouliot, Priest, Racine, Randall, Reeves, Rice, Ridley, Rioux, Roberts, Rolde, Rotondi, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevenson, Strout, Tammam, Tardy, Taylor, Walker, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilston.

ABSENT:—Baker, H.R.; Kane, Paul, Vose, The Speaker.

35 having voted in the affirmative and 111 in the negative with 5 being absent, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended and sent up for concurrence.

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

#### Papers from the Senate Non-Concurrent Matter

RESOLVE, Creating a Joint Select Committee on Economic Development (Emergency) (H.P. 74) (L.D. 95) (C. "A" H-344) which was Finally Passed in the House on June 11, 1985.

Came from the Senate passed to be Engrossed as amended by Committee Amendment "A" (H-344) as amended by Senate Amendment "A" (S-277) thereto in non-concurrence.

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

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

#### Reports of Committees Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-403) on Bill "An Act Concerning 'Constructive Quit' under the Employment Security Law" (H.P. 822) (L.D.

1163)

Signed:

Senators:

BLACK of Cumberland

DUTREMBLE of York

Representatives:

JOSEPH of Waterville

WILLEY of Hampden

TAMMARO of Baileyville

BONNEY of Falmouth

RUHLIN of Brewer

BEGLEY of Waldoboro

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

Signed:

Representatives:

BEAULIEU of Portland

HALE of Sanford

Reports were read.

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

Committee Amendment "A" (H-403) was read by the Clerk and adopted.

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

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: For us non-legal people around here, could somebody please inform the rest of the House what exactly this bill is all about?

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

The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: I am the sponsor of this bill and the original bill is greatly limited and amended by Committee Amendment "A". Basically, what this bill does is add another small sentence to the list, the seven item list of disqualifiers in the unemployment compensation law. It would disqualify a person from receiving benefits should they be discharged from work as a result of having been convicted and incarcerated for a crime and having missed worked greater than two work days and not having made an agreement with their employer before that that they were going to be gone. Very simply that.

There have been instances where individuals have been incarcerated, not made an agreement with their employer that they were going to be gone for a few days or made some agreement they would be missing work and these people have returned and expected to have their own job back only to find that someone else had replaced them.

I think it is a very reasonable change in the law. It is very similar to the statutes currently enforced in Massachusetts and large industrial states like Michigan and California. So, I would hope you would support the bill.

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

Representative MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: May I direct a question through the Chair?

My question is, what happens to someone who has been convicted of an OUI? Does this mean most people who are convicted are going to lose their job?

The SPEAKER: Representative McCollister of Canton has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Beaulieu.

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: This bill would only trigger in, if indeed, the employer opted to fire that employee because he was

convicted of an OUI offense.

I will explain to you that I am on the "Ought Not to Pass" Report simply because I feel this bill was put in because of only one instance where unemployment compensation was granted to an individual and it was challenged and they lost.

I also think that this kind of legislation is going to be very good for the lawyers in the State of Maine. Therefore, I opted not to support it. I don't intend to fight it. I don't think the bill is really needed but, as you can see, I lost again.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I will address this bill very briefly as I, too, signed the "Ought Not to Pass". This bill does absolutely nothing. It is to ensure that anybody that misses work reports within two days to their employer that they are not going to be at work. Now any employer that has policies and procedures within three working days usually are notified. Under this bill, I voted "Ought Not to Pass" because I was concerned with legal ramifications. It does say that it only goes into effect if they miss work more than two work days due to incarceration. Then they have to be convicted. So, there are multiple factors here. I am not going to fight it either, as Representative Beaulieu isn't, but I think it is very poor and I really don't want to tell you what I told Mike.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: A question through the Chair to the sponsor of the bill please?

How would this react or work if the collective bargaining process is already in agreement with the unions?

The SPEAKER: Representative Clark of Millinocket has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Beaulieu.

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I believe that in most collective bargaining agreements there is a time frame in which notice has to be given to the employer if you are going to be out more than x-number of days. I don't see where it would distress any collective bargaining agreement that has something like that in it, but it certainly would be punitive to those that don't have collective bargaining agreements.

Thereupon, the bill was passed to be engrossed as amended by Committee Amendment "A" (H-403) and sent up for concurrence.

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

#### Consent Calendar First Day

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

(H.P. 529) (L.D. 749) Bill "An Act to Prohibit Consumption of Alcoholic Beverages within 15 Feet of a Public Way" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-405)

(H.P. 746) (L.D. 1069) Bill "An Act to Amend and Clarify the Maine Juvenile Code" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-406)

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

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

#### Messages and Documents

The following Communication:  
Maine State Legislature  
Augusta, Maine 04333

June 6, 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 Joint Select Committee on Alcoholism Services 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	3
Unanimous reports	3
Leave to Withdraw	1
Ought to Pass	0
Ought Not to Pass	0
Ought to Pass as Amended	2
Ought to Pass in New Draft	0

Divided reports

Carry Over Bills

(Approved by the Legislative Council) 0

Respectfully submitted,

S/ THOMAS H. ANDREWS  
Senate Chair

S/ ALFRED L. BRODEUR  
House Chair

Was read and ordered placed on file.

#### Reports of Committees

##### Unanimous Leave to Withdraw

Representative ALLEN from the Committee on Judiciary on Bill "An Act to Enhance Enforcement of Drug Laws at the Local Level" (H.P. 821) (L.D. 1162) reporting "Leave to Withdraw"

Representative ALLEN from the Committee on Judiciary on Bill "An Act Concerning Appointment of Counsel for Indigent Criminal Defendants" (H.P. 881) (L.D. 1238) reporting "Leave to Withdraw"

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

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

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

#### Consent Calendar

##### First Day

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

(H.P. 584) (L.D. 854) Bill "An Act to Amend the Disclosure of Licensing Records Regarding Adult and Child Care Programs to Clarify Procedures Relating to Vital Statistic Records and Clarify Officials Authorized to Act as Public Guardians or Conservators under the Probate Code" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-407)

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, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-274) on Bill "An Act to Amend the Maine Certificate of Need Act to Correct Inconsistencies Related to Other Statutory Provisions and to Ensure Cost-effective Development of Services Requir-

ing Acquisition of Major Medical Equipment" (S.P. 461) (L.D. 1264) which was tabled earlier in the day and later today assigned pending the motion of Representative Nelson of Portland to accept the Majority "Ought to Pass" Report.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: You have already had a little prelude to Certificate of Need in a recent piece of legislation so that you understand and know the complications and the expense of what it is like for hospitals to jump through the many hoops that the state and federal government have placed before them.

The issue before us today between Committee Amendment "A" and Committee Amendment "B" is to extend Certificate of Need in to physicians and dentists offices. Committee Amendment "A", the Majority Report, states that they will not need a Certificate of Need in physicians offices and that is the report that I hope you will accept.

I hope you will accept it for the following reasons. Number one, we all know it is very expensive for the facility to do that and a physician doesn't have the staff, doesn't have the time and often doesn't have the extra money to go through the process. For some people, it costs up to \$50,000 or \$60,000 to apply and actually receive that Certificate of Need.

Number two, Certificate of Need was introduced by the federal government because of the way expensive equipment was being reimbursed. When you go to a health care facility, a hospital, and you enter the hospital as an inpatient, you pay for the CAT scan that is down the hall, whether you use it or not. Because of that extra expense, the state believed it should review that enormous expense of a CAT scan. Why should there be more than two in a community or three in a community because everybody in the community pays for it whether they use it or not.

When you go to a physician's office, you only pay for those services that you receive. So, there is a different way of being reimbursed. So, Certificate of Need in a physicians offices just doesn't make sense.

As a matter of fact, in eight states in the United States, they have eliminated the Certificate of Need process altogether. Two states reviewed the need to put Certificate of Need in their doctors offices and they summarily dismissed it.

I would like to just tell you of two so-called war stories that happened in the State of Maine when hospitals could not receive their Certificate of Need in time. We heard this at the hearing and I was so taken by what happened that I asked the man, the physician who spoke, to write it down for me so that I could remember just exactly what happened. I shall be brief.

Dr. David Frasz is an ophthalmologist in Dover-Foxcroft. The hospital had recruited for the service of an ophthalmologist for several years. Dr. Frasz responded, arriving in the Spring of 1979, only to learn that before he could provide services in the hospital a Certificate of Need would be required.

These are the things that causes a facility to get a Certificate of Need: any new service which has a capital expenditure of \$1 or more; any new service which has an annual operating expense of \$135,000 or more; any piece of major medical equipment costing \$300,000 or more; any other capital expenditure totaling \$350,000 or more; or the famous category C, which is all other circumstances. So indeed, this hospital had to apply for a Certificate of Need.

In the meantime, on September 20, 1979, a 62 year old male patient appeared in the hospital emergency room following a chain saw accident which severely lacerated the left side of his face, including his left eye. His left eye

was hemorrhaging. The patient was seen by Dr. Frasz at nine-thirty in the morning. Dr. Frasz, in keeping with the Certificate of Need law, could only provide basic stabilizing treatment. The patient had to be transferred to Waterville, even though he should not have been moved. He should have gone right to the operating room at Mayo, but not until the Department of Human Services had responded and hadn't for the Certificate of Need. So, no ophthalmological care could be provided. Unfortunately, the patient lost the sight of his left eye, a result that the physician believes could have been avoided had the patient not been transferred.

The doctor was there, the services were there, the Certificate of Need, going through that process to be affirmed, just took too long.

On January 1, 1983, Dr. Donald Robertson, a family practitioner in Washington County, donated his clinic in Harrington to the Machias Hospital. The Department of Human Services took the position that this transfer was subject to Certificate of Need. Therefore, the clinic had to be closed until approval was obtained. Now, you remember in the last debate — this sounds like a soap opera, doesn't it, — but we last spoke of the process of referral and denial and then reconsideration and so forth, and at that point, the clinic had to be closed. In the spring of 1983, an elderly patient suffering from emphysema became acutely ill. Against the wishes of his family and physician, the patient refused to go to Machias to the hospital. He had always been treated previously at the clinic. During the night, the patient died. The clinic now operates as a rural health center. So, you see the Certificate of Need was obtained.

The Machias Hospital had asked the Department of Human Services to keep the clinic open under its emergency provision. The department refused citing the presence of a clinic in Milbridge 13 miles away. If this happens to hospitals, what would happen inside a physician's office?

I, for the past six and a half years of my nine year term in the House, have served on what was the Health and Institutional Services Committee and now Human Resources Committee, have been very consistent in my concern for the patient, for the person being treated. I am a major recipient of medical care. I have been hospitalized over 18 times and have had more than 10 operations. I am a consumer of health care. I care about the conditions of health care, quality care, and access to care. If you extend Certificate of Need into physicians offices, who will be hurt? You want to get the doctors? This is not the way to do it. You are going to get the patients. You are going to get the elderly and the rural people — that is who you are going to hurt if you extend Certificate of Need into the physicians offices right now.

It has been alluded to that we, as a committee, are about to have a study on Certificate of Need. Three other bills came up and three other people spoke to the need of not to change anything because we are going to review it. Certificate of Need. You know the expression, if it ain't broke, don't fix it, well, it isn't broken, let's not fix it by extending what is already a difficult process into the private sector where a physician can treat his patient as he knows best, as he is trained to do.

I hope that you will accept the Majority Committee Amendment "A".

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

Representative MELENDY: Mr. Speaker and Members of the House: I stand here today to debate a bill that is very difficult for me to address. Why? Because it could affect many of my friends, doctors with whom I have worked and have a great deal of admiration and respect for.

I received a long letter from one of my nearest and dearest physician friends asking

me to keep the CON process out of physicians' offices. However, if I am to be an effective legislator, I must place my personal feelings for individual constituents on the back burner and address issues as to what is in the best interests of the citizens of this state as a whole.

The amendment that the Minority Report supports is what is in the best interests of the citizens of Maine. Several of us are not convinced that the Certificate of Need process is the best way to address the regulatory problem. However, as long as it exists, I truly believe that we must treat the physicians and hospitals on an equal plane in regards to these three expensive pieces of equipment that are addressed in the Minority Report, mainly the NMR, the CAT scanner and the lithotripter. We must ensure that they be available for use by inpatients as well as outpatients.

As things stand today, a physician is allowed to purchase any piece of equipment without going through the CON process so long as he does not use the equipment for inpatients. However, if he is to use it on inpatients, he must go through the CON process as hospitals do.

What is beginning to happen is that physicians are grouping together to purchase expensive equipment and say that they will not use it for inpatients. They only say that so that they can circumvent the CON process and get the equipment for their communities. If an inpatient needed this new equipment, do you believe the department could readily deny that patient the use of it? You are right, they couldn't and they wouldn't. However, because the hospital has to go through the CON process, it may not have had an opportunity to purchase the equipment as quickly as the physicians that were able to. So, do they now apply for one? Will the department be acting in the best interests of the taxpayers and citizens to allow a second piece of that same expensive equipment to be located in that same area, thereby increasing the costs of services of medical care to our citizens?

I would urge you to defeat the pending motion so that we can pass the Minority Report. What we have done is merely address three pieces of equipment that should not be purchased without going through a CON process.

We have also put a sunset on this because our committee will be doing a complete study of the CON process this summer and we can deal with this issue in the study. We cannot allow the profit making services of hospitals to continue to be eroded from our hospitals. If we continue to allow this to happen, we can look to a future of three choices, (1) much higher skyrocketing costs of hospital care; (2) quality hospital care for the wealthy only or (3) socialized medicine.

Perhaps my biggest disappointment during the hearings and work sessions on this bill was to see the Maine Hospital Association mute on this issue. In asking them directly why they were not protecting their interests, their answer was merely, we don't believe in regulations. When I further asked if they were acting in the best interests of patients by allowing these highly sophisticated pieces of equipment to be placed in outpatient settings thereby forcing inpatients to have to be transferred out for their care, they got very defensive and wanted to quickly change the subject.

I submit to you ladies and gentlemen that until hospitals and the hospital association begin to act in the best interests of hospital care as a statewide concern and issue, as opposed to selfish individual issues, we legislators must protect the system. Hospitals are beginning to be their own worst enemies.

I urge you to support the Minority Report so that we can support our great hospitals that we still have.

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

Representative BRODEUR: Mr. Speaker, Ladies and Gentlemen of the House: Being a cosponsor of this bill, I thank the gentle lady from Portland for tabling this bill because I wasn't able to be here this morning.

I am not as angry as the previous speaker so I will try to hold my comments down to what I believe is a simple issue in this bill.

Under the present Certificate of Need law, hospitals need to be reviewed in many circumstances as Representative Nelson clearly stated. What this particular bill does deals with only three very narrow circumstances under one category and that is with movable major medical equipment. It only deals with three items, a nuclear magnetic resonant scanner, CAT scanner and a lithotripter.

Probably you are fairly familiar with what a CAT scanner does, is probably a more advanced piece of equipment that does some of the same things and probably even at a more advanced level. A lithotripter dissolves kidney stones without surgical procedures. The issue with these pieces of equipment, in particular the NMR scanner and the lithotripter, is that both of these pieces of equipment cost over a million dollars. With the NMR scanner, it costs an additional million dollars a year to operate.

Under the hospital financing system that we studied very extensively, we found out that about 50 percent of hospital costs are paid for by tax dollars with Medicare and Medicaid payments. We also found out that about 40 percent, if my memory is correct, is paid for by insurance. That means insurances that you carry, whether it is Blue Cross-Blue Shield or any other kind of private insurance. Five percent is paid directly by individuals and five percent of the people don't pay and that cost is picked up by the other parties that do pay in proportion to what the cost is. In a situation with physician's costs, I don't know exactly what the mix is but the cost is passed on to the consumer. There is no way that you can avoid that, whether it is through tax dollar payments or insurance payments or individually direct. But if you are a consumer of health care or even if you are not, if you have insurance or pay taxes, you are going to pay for this piece of equipment.

What lack of review would do is bring this cost, whether it is needed or not, to the consumers so, without a review, we could have several pieces of these equipment throughout the state in physicians' offices, even if we don't have them in any hospitals in the state regardless of what location, the costs would be carried to the consumer.

We have one case presently before us in Bangor with an NMR, which is attempting to be purchased, and this bill would address that directly, which will affect the cost to the consumer. That cost to the consumer, taxpayer, insurance carrier and insurance payer will be \$1 million for that one piece of equipment on an annual basis for the life of that piece of equipment.

To me the issue is, this will be a cost to the people of the State of Maine if we don't pass this bill. The cost to the people of the State of Maine for health care without review by any public body will be \$1 million or more, if there are more pieces of equipment. It seems to me that we ought to be looking at those very high expensive pieces of equipment, which will cost so much, which will be added on to the individual people. This is like having a tax increase without any public review.

So, I hope you would oppose the Majority Report and support the Minority Report. I think the issue is, do we need this equipment and if we do, shouldn't we have a review similar to hospitals because right now, under this present system, hospitals will have to be reviewed for this piece of equipment and physicians' offices would not.

We are talking about pieces of equipment, which hospitals do not even have. This is an

unprecedented situation and for that reason, I would hope you would vote against the Majority Report and support the Minority Report.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I hadn't mentioned the other report and therefore didn't speak to you about the three kinds of equipment that second report talks about. One is a lithotripter, it is a wonderful sounding name. It means that if you had kidney stones, you wouldn't have to be operated on. Now, I had a kidney operation as part of my many war stories and of all the operations that I had, it really was the most painful and the most intrusive. I have a scar that runs from the middle of my body all the way up to the back of my body. I had to go to the hospital. I was there for almost three weeks. If my doctor had had the lithotripter, I could go to his office, have that procedure done without any intrusion into my body, without the trauma, without the expense, and I would come out with the same results — that is, I wouldn't have those enormous kidney stones that I did.

Now, these machines are very expensive and I am sure that there aren't a lot of doctors that are going to buy them but certainly as a patient, it would have made a lot of difference if my physician had one of those. So, I would hope that you would go along with the Majority Report. After all, even the Minority Report is going to sunset in a year or two. So, why introduce this whole process? Review is expensive, somebody has to pay for that too, whether that review or that Certificate of Need is accepted or not, somebody pays for the review. So I would hope, again, that you would go along with the Majority Report.

I would hope, Mr. Speaker, when we take the vote that we take it by the yeas and nays.

The SPEAKER: A roll call has been requested. The Chair recognizes the Representative from Houlton.

Representative INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question. Do any of you have an office or have you ever? Would you want a state bureaucracy to tell you what equipment you will have or will not have in your office?

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

Representative BRODEUR: Mr. Speaker, Members of the House: I would like to make two brief points. One, the answer to Representative Nelson's, why do we need this? As this is going to be sunsetted, the committee, as you heard, was planning to do a study but if we do not pass the Minority Report, we could have an additional expense to the citizens of Maine for a million dollars a year or more, for the life of that piece of equipment.

The second point I would like to make is with the issue of access to services. Two years ago, when we were discussing hospital containment, I got a call from a gentleman from Auburn and he was suggesting that we freeze hospital costs. I suggested that we have a bill which will reduce the amount of increase for hospital costs. He said no, that is not good enough, I can barely afford to pay for my insurances right now. I have three kids, a wife, and I have to pay for insurance policies for them personally because my job doesn't allow that. If the cost of insurance goes up at all, I won't be able to afford the insurance because I have to feed my family and pay the rent. If the cost of that insurance goes up, because the cost of medical care goes up, because of these high priced pieces of equipment or any other reason, there are people that are not going to be able to afford insurance. It seems to me that what we need to make sure is that people throughout the state do have access to the system. So, if we keep the cost down, I believe

that we can provide access to people because otherwise they would have to pay for everything.

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

Representative TAYLOR: Mr. Speaker and Members of the House: I don't think it matters in this issue whether we are talking about one piece of equipment or ten pieces of equipment. For those of you who don't know, and believe me I am just beginning to understand, this entire CON process is a cross unto itself that none of us can understand fully unless you have gone through it. We do not want to add those kinds of costs on top of what we are dealing with already in the hospitals until we are very, very sure how it will affect us.

As has been stated, there is going to be some investigation into a study of the whole CON process. Believe me, the way our committee is on this issue, don't worry, it will be looked at. I think this is untimely and I think you cannot ignore the costs that come with very, very heavy regulation, particularly in the CON process. Please support the majority.

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

Representative SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: A couple of points I would like to make also. It has been said that the physicians buy the equipment to circumvent the CON law as it stands now. That is not entirely correct.

First of all, in regard to the NMR, you would find three quarters of those already outside of hospitals. It is a diagnostic tool, it is not a treatment tool.

As far as the cost goes, a million dollars a year as Representative Brodeur said, what about the cost that it saves? I think there would be a cost savings in the long run on all of these things.

As Representative Nelson says, you no longer need the two weeks in the hospital for a kidney operation or the trips out of state to hospitals down in Boston. What would somebody think in some of these counties in central and northern Maine where they now don't have to go down to Boston or some of these other hospitals, what about the cost savings there?

Representative Brodeur also states that there should be a review by the public body. If he thinks that the Department of Human Services is an objective agency to make a view in regards to the public trust, I think he is mistaken there.

Also the proponents of the Minority Report sent around a statement refuting the other report that had already been sent around earlier in the week, but that report they sent around is not entirely accurate. They go on to state that the Minority Report will not put Maine's CON law out of compliance with federal guidelines and regulations. I, however, feel that it will.

There was a law case that you are familiar with regarding these doctors from Bangor. They spent \$100,000 to say that the section of the act, which this report quotes, 304 A 4C was open ended but the fact of the matter is that it does not go into physicians office and I think that is an important point to make.

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

Representative MEDLENDY: Mr. Speaker and Members of the House: I, again, urge you to treat the doctors offices, in the case of these three pieces of equipment, exactly as you would the hospitals until which time we address the whole CON process, whether we ask the hospitals to try to regulate themselves and take care of giving equal care to all people across the state.

I would just like to make a statement regarding the kidney stone machine that Representative Nelson spoke about — in terms of patients

going into a physician's office for their care instead of a hospital, at the time that this was happening, I had a call from an ophthalmologist in my area and he was very concerned because he wanted the use of Yager Laser and our hospital had a CON in process for one and he was asking me to support it, which I certainly did and his concern with people telling him, well, you can purchase it yourself, why don't you purchase it yourself and put it in your own office? He told me that he certainly could have been able to afford to do this; however, he had great concerns because when you are treating someone in the office, you don't have all the emergency equipment available to you that a person would need should a code 99 exist at the time of the treatment.

I strongly urge you, please vote with the Minority Report and let us address this as a committee this summer and come back with something that we can give you advance information on instead of at the 12th hour.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Not to belabor this but just a few more points. As you undoubtedly guessed earlier, I am not a fan of Certificate of Need. In fact, I put in two bills the last session and in this session to get rid of Certificate of Need. I think that you all know that I am not a frivolous legislator and I am also not a mossback conservative, who has a knee jerk reaction to government regulation. The reason that I did, and you have heard one of the experiences that my hospital has had and that has awakened me to the problem that we have with Certificate of Need, several things have become clear to me in the testimony that we have had before our committee. Now that we have both Certificate of Need and hospital cost containment, there is a real difference between them. The role of Certificate of Need has been basically that of the payer. They are on the same par as the insurance companies and their real main object is to cut down any cost to themselves or to the insurance company. That leads them to what I would call a Luddite mentality. Let me explain what Luddite is. Luddite's were a group that formed at the beginning of the industrial revolution and destroyed the machines that were coming in because they were afraid that they would put them out of work. Basically, how I see the position of the CON operation is to say, no.

Now the first time I put my bill in, the department, of course, was extremely opposed. The newspapers were saying that they had saved \$51 million for the people of Maine. When we had the testimony on the bill, and the bill was in two parts, Commissioner Petit came down to lead the opposition. He wasn't satisfied with saying \$51 million. He came in and said \$300 million. But in the second bill, the testimony that had been written for him went back to \$51 million. So, if you want to know what they saved, it is somewhere between \$351 million. This year they came in and said they had saved \$51 million again. So, between last year and this year, that means they saved nothing.

I suspect that the \$51 million is what they feel they have turned down. Now, I often wonder what would happen to another department of the state that boasted that they had turned down \$51 million worth of economic activity for this state. That certainly is going to cost us something.

Now why do we have this technology? Other speakers have told you it is to save lives and to save money. We have instances, for example, of a hospital here that wanted to have a laser operating scalpel, which would have saved tremendous amounts of money, it took them three years to get it. I told you about the problems of going over three years with my hospital to get a mobile cat scanner, which has

also saved a great deal of money.

Let me say a word to my fellow Democrats. President Reagan has touched a popular nerve with the theme of getting government off the backs of the people. I don't agree that he always practices what he preaches, nor that government always should stay out of peoples affairs, but I believe we must carefully pick and choose and not pile up regulations after regulations, bureaucracy upon bureaucracy. The Minority Report shows the totalitarian nature of the CON process. To be effective in the eyes of its supporters, it must be everywhere saying no, basically because in order to claim savings, it can only claim that which is turned down or revised downward. I, frankly, don't think it is as saved us anything. If it had, we would not have had to go to a hospital cost containment program. I think it has cost us a great deal in money, aggravation, lost opportunities, and most importantly and most shamefully, in the added pain, the lost health, yes, even lost lives of those that were denied appropriate health care by an entrenched bureaucracy that now proposes to spread its tentacles even farther. I hope you stick with the Majority Report.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I am confused on this issue and probably a few others are too. It seems to me I am hearing that this equipment that is in the doctors office, we won't have to pay for, but if it is in the hospitals, we will pay and I can't believe that. I think we are going to pay no matter where it is. But is that the truth? Do you believe that if this equipment is in the doctors office that it is not going to cost us anything?

The SPEAKER: Representative Smith of Island Falls has posed a question through the House to any member 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: I am sorry if that impression was left with the people in the House. The idea is that if you go to a doctors office and you use one of these machines, of course you will pay for it, but when you go to the hospital and you get your bill at the end, inside that bill are extra costs of machines that you didn't use. That is the difference because of the way the cost is factored out. No one said and no one meant to imply that if you went to a doctor's office and used any of these, any of these machines, that it would be free. In America, there is no free lunch. I am not saying this is a free way to do it, it is just for the individual person in the long run and it is less expensive.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: A further question through the Chair. What I am hearing now then, if you can afford it, you go to the office and get it, is that right?

The SPEAKER: Representative Smith of Island Falls has posed an additional question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: To respond to the gentleman's question, one of the situations is that you may have to go to Boston and pay for it.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I live on the border where the hospitals in New Hampshire

are not regulated. We do not have Certificate of Need, we do not have any regulations in the doctor's office. Within three miles of me in Dover and four miles of me in Rochester, we have all this excellent equipment. Crushing kidney stones, they can buy whatever they can afford. We have all these good things and the day care there is no more costly than it is in the State of Maine. In fact, it is a little bit cheaper. So tell me, what good the Certificate of Need is doing in the State of Maine?

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 acceptance of the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 186

YEAS:—Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bost, Bott, Boutilier, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Chonko, Clark, Connors, Cooper, Cote, Crouse, Crowley, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Duffy, Farnum, Foss, Foster, Greenlaw, Hale, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jackson, Jacques, Joseph, Kane, Kimball, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Macomber, Martin, H.C.; Masterman, Matthews, McCollister, McGowan, McHenry, McPherson, McSweeney, Michael, Michaud, Mitchell, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Parent, Pines, Pouliot, Priest, Racine, Rice, Ridley, Rioux, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Small, Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilnton.

NAYS:—Aliberti, Allen, Baker, H.R.; Beaulieu, Brannigan, Brodeur, Carroll, Carter, Cashman, Coles, Connolly, Erwin, Gwadosky, LaCroix, Manning, Mayo, Melendy, Mills, Moholland, Paradis, P.E.; Perry, Reeves, Smith, C.B.; Warren, The Speaker.

ABSENT:—Higgins, H.C.; Jalbert, Paul, Randall, Richard.

121 having voted in the affirmative and 25 in the negative with 5 being absent, the Majority "Ought to Pass" Report as amended by Committee Amendment "A" (S-274) was accepted and the Bill read once.

Committee Amendment "A" (S-274) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-274) in 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 to Authorize a Bond Issue in the Amount of \$4,300,000 for Constructing and Equipping Centers for Advanced Technology that Service the Economic Development Needs of Maine (S.P. 412) (L.D. 1142) (C. "A" S-265) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Before we enact, or attempt to enact anyway a couple of bond issues tonight, I thought I might briefly discuss, with the Chair's indulgence that is, perhaps where some of the members of the Appropriations Committee were coming from on the issue of bonds.

This is the first one that we have had out of our committee. As you know, we enacted and is now presently on the Appropriations Table in the Senate a \$20 million Bond Issue for highways, bridges and airports.

Just as a brief history, Maine's credit rating had always been Triple A from the 1940's to the mid 1970's when Moody's dropped our credit rating from Triple A to Double A.

Just as some background to see the strides that we have made since that time, I want to be honest and upfront and say that I do feel that the state has certainly made some real strides in the manner in which it has dealt with its bonds. But in 1970, Maine's debt per capita was \$198 per person. The Moody's median nationwide was \$89 a person. So, in 1970, we were twice the national average regarding the debt per person. In 1985, we are almost average. We are \$251 per person and Moody's median for nationwide is \$258 per person.

One of the publications that the Treasury Department had been handing out, at least to members of the Appropriations, is the study done by Prudential-Bache called "The State of Maine, a Quiet Success Story". The figures that I gave you came from that. I want to just quote if I can some lines that follow after that. It said: "policy guidelines initiated in the mid 1970's called for restricting annual authorization of new bond issues to 90 percent of principle retirements with sharp limitations on contingent debt risk exposure. The favorable results of these restraints are evident in the table just above. During the current fiscal year, the 90 percent rule has been lifted in order to accommodate prudent infrastructure repair and economic development objectives and has been replaced by a new policy which would limit aggregate annual debt service to no more than seven percent of the state's own source general fund and highway revenues." I think that is the issue that we are dealing with here now, the transition, the strides that we have made from the mid 1970' to the mid 1980's — where do we go from here?

The Governor made it clear earlier on in January that he intended to support a policy of seven percent of own source revenues. Now the seven percent of own source revenues is strictly an arbitrary figure and I don't think anybody can argue with that. Other states that have Triple A ratings utilize a percentage factor of own source revenues. Some are higher, some are lower. Georgia is two percent, Maryland is five, New Jersey is seven. So there is some history, there is some precedent for using a percentage of own source revenues.

I don't find anything necessarily at fault with that from my own stand point as an individual legislator but the point I am trying to make is it is an arbitrary figure and it is one that I think we need to deal with perhaps slowly.

The problem that many of us, depending upon which bond issue you are talking about, had in the committee with this was the magnitude of the dollar amount that was being asked for.

The Governor, in various different issues, we had to consider probably \$57 million of total bonds. The majority package from the committee is around \$50 million. There are a couple of us on the committee who, if we had our own way, would be around \$43 or \$44 million. I think the issue that I am trying to get at is the magnitude of the difference of the change, from the 90 percent rule to using a seven percent figure or some other figure.

In the next 12 months, we are going to retire around \$35 million worth of bonds. If we follow

the majority recommendation, we are going to be issuing or, at least send to the voters of the state, about \$50 million worth of new bonds which is almost 150 percent of what we are retiring.

I have a concern with that. I have a concern that we may be starting to regress perhaps to our mid 70's attitude. I don't want to see the state and this body rush into what I would deem a new found success. We have had success in reducing the state's outstanding debt, reducing our risk factor, the percentage of state revenue that go towards paying off bonds and I don't want to get ourselves into a situation where we over-extend ourselves and start to have a credit problem and then we have to step back in with some real potentially detrimental results.

I think that if we go to the \$50 million figure that we are setting a bad trend. I think the trend is the one that the people on Wall Street look at. Once again, this is a subjective decision, there is no question about that. I think the people on Wall Street look at the trend in how the state handles its debt. We steadily progressed from some \$262 million worth of outstanding debt in 1979 and we are now up to \$295 million but, over a five or six year period, I don't consider that terribly offending and I am sure they don't.

One of the problems that we did have was that in one year between 1982 and 1983, our outstanding debt went from \$250 million to \$300 million. Now it has dropped off since then, there is no question about that, but those sorts of big jumps, I think, can create a real problem or a potential for a problem anyway when we start dealing with the people on Wall Street who set the rates or deal with our credit rating that eventually costs the State of Maine money.

To get on with the specific issues that we dealt with, I don't have any question in my mind that every bond issue that was brought down there that we heard had merit. The question then, from my standpoint is, we have to prioritize. Every one of them has merit, which ones in front of us are the ones that are the most important, the most cost effective, that do the most good for the greatest number of people and the ones that are timely that can't wait, that there isn't something that can't intervene in the meantime that would perhaps put off the issuance of these bonds later on.

I think the people of the State of Maine don't want us to be a rubber stamp for every bond issue that comes in here. I think they want us to look at them as critically as we can and send to them only the ones that we think are the most important. Having said all that, the issue of the bond that we have in front of us was initially a \$5 million bond for what has been called the Orono Research Park. I will reiterate, I don't find anything wrong with the issue itself. It is an admirable task, it is one that certainly has a great deal of merit. I found it difficult to vote against it. But from my own standpoint, I tried to prioritize, I tried to say what was the most important, what was in between, what was the least important and what could wait. In my opinion, this was the bond issue that could wait. Certainly the proponents of this disagree. That is why we have the legislature.

At the hearing, my feeling was and I think you will find from any member of the committee that they did, in my opinion, less than an adequate job in explaining exactly how this bond issue is going to work. The intent behind it is to set up an industrial park that deals with high technology. The State of Maine would grant originally \$5 million and now \$4.3 million to build — it was unclear at the hearing but I have been told since then — to initiate building some buildings there to house high tech and communications and that sort of thing. The land, as I understand it, has been donated to Orono and they intend to operate the park. The problem that I have with it at

this time is that it is not known who will operate this facility, who is going to be in the facility, if anybody, and when is it going to happen. That is the concern that I have. In the scheme of prioritizing, it seemed to me that this was an issue that could wait. These bonds will not be voted on until November. We will be back here in January and, at that time, I would hope that the people involved with this issue would be able to present to us the details of how this is going to work. What kind of a building is it going to be, who is going to own and operate it and the type of people or perhaps the specific people that are going to be involved. It is a joint cooperative effort, I find nothing at fault with that, but it seems to me that we ought to have the specifics of it before we go out and issue the credit of the State of Maine for perhaps a facility that may never be built. In January, if they can come back with that sort of a plan, then the bonds can go to the people in the primary in June. We are really only talking about a six month period of waiting as far as the issuance of bonds go. To me that made more sense.

I think it is important that we keep our exposure down and that we prioritize. From my standpoint, this was one of my least priorities, that is where I am coming from, and I would hope for the sake of responsible, prudent fiscal matters that you would vote against this bond issue.

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

**Representative CARTER:** Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Scarborough, Mr. Higgins, has touched on several issues, many of which I disagree with.

Now, let me try to give you a scenario of what took place in the Appropriations Committee for starters. I think it is safe to say that every member of the Appropriations Committee is very much concerned with the financial picture and the financial stability and the financial future of the State of Maine.

The bond issue requests that we received were pared down considerably. The committee tried to work together to achieve unanimity and, at the same time in its own way, prioritizing the various issues that were before us. We were unsuccessful in reaching unanimity but we were successful in paring down the requests and changing them to what we think are the problems that should be dealt with today.

My good friend from Scarborough indicated that he is concerned with the magnitude of the dollar amount and he alluded to the fact that the 90 percent rule was a useful tool. Well, I will grant him that point, the 90 percent rule, when put into practice, served its purpose. But today it is antiquated and it has reached a point where it is almost ridiculous to try and apply the rule. I say that because we are going to retire in the first year of the next biennium \$35 million and to apply the 90 percent rule would mean that we would only authorize somewhere around \$28 million of new bonds. Certainly, when you compare the debt service against the revenues of this state, that amount is ridiculously low, especially when you are dealing with issues of high priority that should be funded today.

It is an offset to the 90 percent rule Governor Brennan has chosen to implement by executive order the so-called seven percent rule. I had a copy of that distributed on your desks several days ago. The seven percent rule is much more effective in dealing with the problems of today. The seven percent rule was not only reviewed but it was endorsed by the state's financial advisors, Prudential-Bache Securities.

Briefly, let me explain to you how the seven percent rule operates. It is no different than how you operate your household budget. If you think of it in those terms, I think it will simplify the thing. In your household budget, you normally

have a percentage for rent, a percentage for food, a percentage for utilities, a percentage for recreation, and so on. The same type of logic or prudence is applied in this case. In this case, seven percent of the estimated revenues of the state can be set aside as debt service. The revenues for the state amount to combined, that is highway and general fund, amount to \$956 million. Seven percent of that amounts to \$67 million. We are talking monies available for debt service retirement. The current debt service retirement is \$54 million dollars. The difference between \$54 million and \$67 million is \$13 million. \$13 million now available for additional debt retirement. If we utilize or authorize only \$50 million of new bonds at eight percent and, with a 10 year retirement, we would use approximately \$10 million of that \$13 million, which is about 90 percent of what is available that we could utilize.

I believe this is a much truer and sensible approach in dealing with the issues of how much or how many bonds we ought to authorize in the legislature or submit to the people for authorization.

The seven percent rule will also stabilize the bond issues and not be faced with an up and down roller coaster effect like we have seen in the past with the 90 percent rule in effect. One of the problems, when we talk about the 90 percent rule, is, we are talking about bonds that we authorize. But the bonds that we authorize are not issued the same year. For example, Representative Higgins has indicated that in the coming year of the biennium or in June of 1986, we are going to issue about \$50.8 million worth of new bonds, well let me indicate to you when they were issued or when they were authorized, one was authorized in 1977, three were authorized in 1983 and three were authorized in 1984. If you were to apply the 90 percent rule, it is difficult to say that all the bonds that were issued in 1983 or in 1977 exceeded the rule, that we had arbitrarily levied against or used as a yard stick.

If you look through the publication put out by the Treasurer's Office, you will see all kinds of fluctuations in that principal. I think it is safe to say, that following the seven percent rule, it is a much more logical approach to dealing with our problem.

Now I would like to go on to the issue of prioritizing and I believe that the committee acted as it should when it authorized this particular bond issue. It was submitted to us as an issue requesting \$5 million. The committee chose to cut it down to \$4.3 million. My good friend from Scarborough indicated that the bond issue is an admirable approach to the situation. I disagree with him. I think it is essential to the economic future and survival of this state. Why do I say this? Some of you are aware that the state and the country is currently undergoing a revolution, a revolution greater than the industrial revolution ever was, it is one dealing with robotics and high tech. Currently, the manufacturing labor force of this country amounts to 18 percent. By the turn of the century, that figure will be down to three percent. Now we are not talking a few jobs that will be lost, we are talking many jobs. We are not talking about unemployment in the future, we are talking about disemployment in the future.

Strangely, this morning I went to my post office box and I got the latest report from the Department of Labor and I glanced at the figures, statewide figures, on manufacturing. What they reveal is really scary. A year ago this month, the total manufacturing jobs in the State of Maine amounted to 109,100. This month, it is down to 104,500. Almost 5,000 jobs have been lost. They will never be recaptured. This is going to keep reoccurring. We have seen it in my area, Diamond Match. Many other areas will be affected. The entire scenario rolls around high tech, adequate research, retool-

ing, modernization, robotics and what have you.

The State of Maine does not have any facility available to deal with this type of activity. The proposed bond issue would form the nucleus for providing adequate technological strength to the existing industries in the State of Maine. The location of this facility at Orono is the proper place because the university is currently conducting 97 percent of all the research that is done in the State of Maine. The \$4.3 million will be utilized to set up a communication network available to the entire state and eventually, with proper connections, an industry in the State of Maine, be it an industry that employs 500 people or one that employs 20 with the proper equipment, could be able to take advantage of the latest technological information available in the country.

Now, it surprises me that it has taken so long to see this type of activity come to fruition in this country. Five years ago, I was in Germany and, as a Lion, I was invited to attend the local Lions Club meeting which I did in Heidelberg, Germany. I was amazed when I heard what they were discussing. The very same subject that we are talking about, they already had in operation. It was difficult for me to understand how the Europeans, who are so security conscious, could talk about the free interchange of technological information all across Germany and the Common Market Nations. It really surprised me. But nevertheless, the system is in operation. What we have here before us today is essentially the same type of an operation. If, as I said before, the economic future of the State of Maine is going to be insured, then it is necessary for this particular bond issue to be enacted. I would urge all of you to follow my light.

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

**Representative BELL:** Mr. Speaker, Men and Women of the House: There is no question that the committee made a great deal of progress with the bond package that is coming before you. The committee struggled with a number of different concepts.

Representative Carter talked to you about the seven percent rule and, if we were to follow this seven percent rule, we may authorize as much as \$72 million worth of new bonds. The committee, as Representative Higgins mentioned, had before it \$57 to \$59 million of proposals. The final recommendation coming out of our committee, the Majority Report, is \$50 million. Some of the progress that we made was number one, reducing the total number that came before our committee.

The second type of progress that we made was reducing the term of the bond. In the past, we have issued these for 15 or 20 year periods of time. Most of the bonds before you coming out will be five, ten or twenty years.

For interest sake, I just added up the interest and, if you notice the amendments coming across your desk on various bond issues, you will see the amount of principal that will be owed but also the interest. Just for interest sake, I added up the interest notes on all of the bonds coming before us out of the \$50 million package. This body may be interested that if we enact all \$50 million, we can expect to pay \$36 million in interest before we repay the money that we may borrow during this session.

Talk has been around the seven percent rule, the 90 percent rule, really the issue is, how much can we afford to bond? And as you can tell by the two previous speakers, there are two different points of view. It is my belief that the 90 percent rule, which was to retire or authorize 90 percent of what we retire to decrease the states amount of bonded indebtedness, served the purpose at its time. At one time we had a very high amount of bonds out and our rating did decline and it was a bipartisan attempt to reduce the amount of

bonds that we were authorizing in one fiscal year.

Both of the previous speakers also talked about the seven percent rule. Basically, that concept is, if we take the revenues that come into state government through the General Fund and the highway fund, the seven percent rule says we will take seven percent of those revenues and that can go toward bonding principal and interest.

I guess the issue at hand today and in the next few days will be one of affordability. Each member I think in this body needs to determine how far they are willing to go. Representative Carter also talked about a household budget. I don't know that there is anyone in this chamber that makes \$100,000 a year except maybe Representative Dillenback. If we say we had \$100,000 that we could spend in a budget, if we took the seven percent rule, we would be saying we could afford to borrow seven percent of that or about \$7,000 a year. Now, I think there again, we could pick a number, three percent or four percent or five percent or seven percent. The Governor of this state has picked, and it is certainly his prerogative to pick the seven percent as the rule. Other states vary in that percentage.

Representative Higgins was also talking about one of priorities. In good conscience, when I looked at the bond package, I was pleased that we reduced the total number of bonds that were before us. I think the committee was unanimous in its concern for the total amount of bonding that they were willing to endorse. The other thing was the terms that I mentioned before.

This particular measure that is before us tonight is \$4.3 million for a research park in Orono. I believe that many of the proponents of this particular bond issue have very good intentions. I guess my concern was, at the hearing, it seemed to be one of the poorer presentations, not taking away from any individual who testified but there were a number of questions that could not be answered. I guess my particular feeling was, they may be better prepared another year, better organized, and could answer some of the questions that Representative Higgins raised.

One concern that I have is tax free bonds and that answer never really came back to us. The question was, could tax free bonds be used to pay for this particular project? Because I was confused as to the specifics of this proposal, it was one of the lower priority bonds on my list. I think that the intent of the people who are promoting this particular bond are positive. I think that it is probably in the best interest that we do this at this time. I would urge your consideration, from my particular view, that we are not ready to go forward at this point.

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

Representative BOST: Mr. Speaker, Men and Women of the House: As you can see before you, this is a bipartisan Majority Report from the Committee on Appropriations and cuts across regional boundaries. If we are serious in our attempt to promote the interfacing of business and industry with our public higher educational institutions, then I believe that we should pass this bond issue and let the people of Maine determine its fate in November.

Responding to the good gentleman from Scarborough with regard to the priorities, I and others feel that this should be a very high priority.

The purpose of the \$4.3 bond issue before you as amended and as Representative Carter has elaborated is to make the technological strength of the University of Maine at Orono more readily accessible and responsive to the needs of business and industry statewide.

As previously mentioned, with UMO conducting 97 percent of all the research and development work done at Maine colleges and

campuses, UMO is the significant resource in the state that can encourage technology transfer to business and industry.

The bond issue, therefore, would locate the facilities at the Orono Research Park which would serve as a bridge between UMO and the state's business interests.

Specifically, roughly 60 percent of the bond issue proceeds would be used across the state to finance the installation of an advanced communication system designed to expedite access to UMO facilities and personnel, very similar to the kinds of facilities that Representative Carter was referring to already in place in Europe. The system would also provide statewide links to regional, national and international information and communication networks. The total system would assist business and industry throughout the state by facilitating technology transfer, increasing access to computing and research facilities aiding the delivery of technical services and by saving travel and personnel costs through tele-conferencing.

Roughly 40 percent of the bond issue before you, the proceeds of that bond issue, would be used to finance a construction of a food product and process development center. The center would conduct the research and testing needed to verify the economic feasibility of the product and process innovations through laboratory testing, processing in pilot facilities and market analysis. Those benefiting from the centers activities would be those whose livelihood would depend upon raising, harvesting or processing food commodities in Maine and that includes a great many people. Agricultural and fisheries interests would also be assisted. The center would be closely aligned with UMO's food science department in various sectors of Maine's food industry.

Currently Maine's food industry lacks the facilities in the public or private sectors engaged in food product and process development. As a major food commodity producing state, Maine is rather unique for its absence of such facilities. The blueberry industry and others would serve as an example. The potato and potato starch industry need new products and new markets that utilize their raw commodities and processed waste.

In short, the proposed facility developments are the product of over a year's worth of work and deliberations involving specialists in the communications and food service fields as well as representatives of business, industry, agriculture and fisheries interests. The bond issue, I believe, represents the building of a new bridge between Maine's research community and its economic sector. The bond issue calls for a new alliance that joins the unique research and development strength of the University of Maine at Orono with the technological needs of business and industry throughout Maine. Therefore, I would urge your favorable vote on this bond issue.

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

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I don't have any real disagreement with what my colleague, Representative Higgins or Representative Bell, have said. I think there is a little difference in philosophy but that is the nature of the game.

I do just want to state that the Governor could have issued a bond package of up to \$72 million as Representative Bell has acknowledged. Instead it was somewhere in the vicinity of \$57 million, which I think was prudent.

The committee did not rubber stamp the Governor's package. As a matter of fact, when we came out with it, it was somewhere in the vicinity of \$50 million. We have made some adjustments to this package, we have our own proposal that is going to be coming out before you pretty soon. We have got a VTI package that we are going to present to you, hopeful-

ly, for your approval. We pared down several of these bond requests and I think the guideline that we used to keep it down well under that seven percent rule.

As to the interest rate that Representative Bell stated, I believe that the interest rate on every single bond issue that goes before the public is going to be part of that question. So it is also before the public and that is something that the public has got to decide on whether they want to pay the interest rate that is suggested on the package. I think that is prudent.

Also as far as the seven percent rule is concerned, you ought to realize as well that there are some states that are lower but there are some states that are higher. So again, I think that the seven percent rule is prudent.

Getting back to the interest rate just for a moment, in considering this interest rate, I think we also must ask or consider how this is going to assist business in this state and how will this translate into a financial benefit for the state and weigh that consideration with the interest. I think you will come down on the side of this bond package. I urge your passage.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I don't think that I can add much more testimony to you people, I know you are all tired. This was my highest priority of all the bond issues that have come before our committee so far. I think this will benefit the whole State of Maine as Representative Bost has discussed about the communications and all the food producing areas and manufacturing. I urge your consideration to vote yes for this package.

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

Representative FOSTER: Mr. Speaker, Men and Women of the House: About 10 years ago, I saw on the market a little brown fruit and I said to the man in the store, what is that? He said, that is a Kiwi berry root and it comes from Australia. I said, it is a ugly little thing, isn't it? I didn't hear about it for about five years. About three years ago, I saw Kiwi berries in all the market places. I said the same thing you know, is this the little Australian berry and they said, no this is not from Australia root. This is now being grown in California. I said, California? Well of course, they have some wonderful technology out there and they are growing kiwi berries in their vineyards along with their grapes.

As I sat through this hearing on what Maine's food industry needs, I thought what they really need is something to make potato look like rice so that once in a while I could eat rice. I haven't had any since I came to the legislature surrounded with this Aroostook delegation, or a blueberry that becomes a raisin. I think that this is a very important issue. It is not just for northern Maine, eastern Maine, this is all of Maine. We have apples and lobsters and fish and sausage and you name it. Maine is famous for its entrepreneur's and I see this as one big kitchen and everyone right there talking over what they are going to do next and we will have the technology to help them.

Mr. Speaker, I ask for a roll call.

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

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

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

Representative WHITCOMB: Mr. Speaker and

Members of the House: I rise today in support of this bond issue for several important reasons. I think this bond issue is especially important to those communities in the state that have a valuable resource based industry, whether it is agriculture, whether it is forest products or whether it is ocean products. We need the involvement of high technology industry in these industries. We are already paying an extremely high price tag for our sea grant university, for our engineering college, for our forest products college and for our land grant agricultural college. We are already buying these facilities. It only makes sense to use these facilities to their maximum potential. We need this research park to attract the private investment in research that we are already so heavily committed to through the public sector.

All of the industries that we think about in terms of the natural resources, all of the agricultural commodities, stand to benefit from facilities that can add to the further processing and the value added marketing of these products. The value added marketing is where the bucks are, that is where we can stand to improve our agricultural communities.

You know a hundred years ago, this legislature took a bold step in creating a land grant experimental college. When they did that, they had no idea what the results would be. The results, as you well know, have been fantastic. I think, at this point, the legislature needs to take, not even as bold a step in simply giving the voters an opportunity to listen to the various individuals make their case for and against this bond issue. It may be penny wise and pound foolish to spend the millions and millions that we do on the facility at the University of Maine and not approve this bond issue which would allow the private sector to further enhance that facility.

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

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: Just one question if I may.

What is the structure of the governance proposed for this facility?

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

The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Ladies and Gentlemen of the House: I hope this will answer Representative Davis' question. The State of Maine would own the communication system and the food product and process development center. These facilities would, however, be leased to a specially created locally based non-profit corporation that would guarantee to the state that it would be responsible for financing and managing the operation of the proposed facility. The arrangement is similar and has precedent in both the Eastport and Searsport Port Development projects.

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

Representative BOTT: Mr. Speaker, Men and Women of the House: Over the years, we have contributed a substantial investment in the University of Maine system and in higher education in general, an investment that continues, one that not only benefits the students that graduates but benefits the state as a whole. This is a proposal to more fully realize that investment to provide jobs, to establish a partnership between business and higher education.

I would submit to you that what we will reap from this \$4.3 million will be far greater in terms of benefits, in terms of jobs, in terms of the future of this state. I would submit that we will get much more than the \$4.3 million that we are asking here today. I hope you will sup-

port this bond issue.

The SPEAKER: The pending question before the House is passage to be enacted. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House is necessary. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 187

YEAS:—Aliberti, Allen, Baker, A.L.; Baker, H. R.; Beaulieu, Bost, Bott, Boutilier, Bragg, Brannigan, Brown, A.K.; Carrier, Carroll, Carter, Cashman, Chonko, Clark, Coles, Connors, Connolly, Cooper, Cote, Crouse, Crowley, Descoteaux, Dexter, Diamond, Drinkwater, Duffy, Erwin, Farnum, Foster, Gwadosky, Hale, Handy, Harper, Hayden, Hichborn, Hickey, Hoglund, Ingraham, Jacques, Jalbert, Joseph, Kane, Lacroix, Lander, Law, Lawrence, Lebowitz, Lisnik, MacBride, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, Moholland, Murphy, E.M.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pines, Pouliot, Priest, Racine, Randall, Reeves, Rice, Richard, Ridley, Rioux, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Salsbury, Scarpino, Sherburne, Simpson, Smith, C.B.; Smith, C.W.; Soucy, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammaro, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

NAYS:—Armstrong, Begley, Bell, Brown, D.N.; Cahill, Callahan, Davis, Dellert, Dillenback, Foss, Greenlaw, Hepburn, Higgins, L.M.; Hillock, Holloway, Jackson, Kimball, Lord, McPherson, Murphy, T.W.; Seavey, Small, Sproul, Stetson, Webster.

ABSENT:—Bonney, Daggett, Higgins, H.C.; Paul.

122 having voted in the affirmative and 25 in the negative with 4 being absent, the Bond Issue 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 Authorize a General Fund Bond Issue in the Amount of \$15,000,000 for Sewage Treatment and Water Quality Improvement Facilities and Restoration and Cleanup of Oil Contaminated Ground Water and Well Water (H.P. 907) (L.D. 1306) (C. "A" H-380) which was tabled earlier in the day and later today assigned pending passage to be enacted.

In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 127 voted in favor of same and 10 against, and accordingly, the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

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

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

#### Reports of Committees

##### Divided Report

Seven Members of the Committee on Judiciary on Bill "An Act to Require Parental Consent in the Case of Minors' Abortions" (H.P. 298) (L.D. 387) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-408)

Signed:

Senators:

CARPENTER of Aroostook

SEWALL of Lincoln

CHALMERS of Knox

Representatives:

COOPER of Windham

STETSON of Damariscotta

ALLEN of Washington

PRIEST of Brunswick

Five Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-409)

Signed:

Representatives:

CARRIER of Westbrook

DRINKWATER of Belfast

MacBRIDE of Presque Isle

LEBOWITZ of Bangor

PARADIS of Augusta

One Member of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "C" (H-410)

Signed:

Representative:

KANE of South Portland

Reports were read.

Representative Kane of South Portland moved acceptance of Report "C".

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: As many of you know, I have been very busy lately with exams and exam preparation of one kind or another. I just wanted to publicly thank the members of my committee who have been more than gracious and understanding to me during this time. They couldn't have been more considerate and I want to publicly thank them.

With regard to the numbers of people on these reports, I would like to think that had I been around here a little more and a little sooner with regard to the work sessions on this bill, I have had indications that maybe I wouldn't be standing out there all by myself, but you will have to judge that yourself.

The other thing I would like to say, preliminarily is that I hope that everyone in this House considers each of these reports, the result of an effort of unquestionable good faith on the part of each signer to each report. I can assure you that is the case. The committee worked long and hard and diligently on this and the best we could do was three reports. We could not come to one mind on this bill.

I would like to comment about how one might approach a bill like this. It has been my experience that bills of this type are the most emotional and potentially explosive bills that any member of this legislature is going to hear. Political scientists tell us that there are a couple of ways that legislators do their job. There are issues where you sort of try to take the pulse of the people at home and then you come up and vote the way they would have voted had they voted on those issues en masse. Then there are other issues where, in effect, the power is delegated to you as an individual because they are delicate sort of judgments that really are very difficult to make en masse and, in that instance, I think a person elected to a legislative position has got to make up his mind after consulting his or her own conscience and then go home and face whatever the consequences might be.

I think this is probably the classic issue of this type to apply that sort of analysis where it really isn't one but you can check out people at home and see where they are going to be. Everybody, after voting on this bill, will have made people in his or her district unhappy. This is just the kind of issue, I think, when all the smoke clears and we are not in this business anymore, in the end, one has to live with one's self first. So that is the way I have approached this issue. I know that is the way other members of my committee have approached this issue and it has been very difficult for everybody and that is the way I would suggest other people think about it too.

I would like to ask people if they would — other people are interested in other reports on

this issue to forego exercising their right to object to my mentioning other reports than the report which I have moved because there is no way that I can meaningfully explain the report, which I recommended to you, without explaining the original bill which came to the committee and the process to which the committee went in order to get to this point today.

The original bill, which is before you today as Report B, requires or would require that all young women in Maine under the age of 18, that is 17 and under, before having an abortion would have to have the consent of the parent or the legal guardian or would have to go to court, would have to go before a judge.

Now, it is far more complicated than that but I think that is a cogent general outline of it. I think that the majority of the committee's reaction to that proposal was they were troubled by it for two reasons, the first reason being, I think, that people were troubled by the age. Some people wondered whether or not young women 17 years old ought to be treated the same as adults or whether or not they ought to be treated like younger adolescents. Some people wondered whether or not 16 and 17 year olds should be treated as adults rather than as adolescents. But there was, I think, as you can tell by the report, a majority feeling that maybe every young woman under 18, was a little high. So, the other problem perceived with the original bill was the judiciary problem. A lot of people felt that having a young woman, whose circumstances dictated that she could not get parental consent or guardian consent, for whatever reasons and they could range across the board, it may not be a young woman who has difficulty communicating with her parents, it may be someone who has had a recently deceased parent, the other one is very bereaved, it may be an abusive home, an alcoholic home, or in the worst possible circumstances, it could be an adult within the family that was the cause of the pregnancy requiring that young woman, of course, to go and get permission from that same family, is a very harsh requirement to say the least. So, the majority of the people on the committee felt that it was a little difficult to require that young woman to go before a judge with the generally accepted connotations of one who stands before a judge has probably done something very wrong or at least been accused of it.

The second report came out of those fears and that second report is what has come to be known as the Cooper Compromise. What the second report does is, rather than have the judge in his or her robes sitting in the courtroom and having the young woman have to appear before the judge and get permission for the abortion, what was created was a special master sort of a system and some of you are familiar with that where a court will appoint someone in effect to carry out some of its duties, the idea being that this person would be clothed in judicial authority, would be acting under judicial auspices but the young woman who went before that person would not have to be in such terror to go before a judge.

The other problem that the judicial angle had was that in some other states, notably Massachusetts, passed a bill very much like Report "B". There were a lot of judges whose personal code was offended by having to give permission to a minor for an abortion so, in every case, they routinely refused themselves. So, common sense will tell you that for those judges whose personal code was not offended by having to perform that function, they were rather over loaded since all of those cases went to them.

The other part about what has been called the Cooper Compromise, and I think that special master provision is the most important, I think it is a very, very wise provision and that is incorporated in Report "C", but the other part about the Cooper Compromise which is before you, which is Report "A," is that it re-

quires counseling for those people — it sets the age limit at age 15 and under for people who either have to get consent or go before this special master. For those young women 16 and 17 in these circumstances, it requires some rather particularized counseling. That seemed to me all right for a while until the committee consulted with two people that I think can be called constitutional experts and those people agreed that, if there was going to be a constitutional problem with this and both of them thought there might be, that it would be in that requirement of consent since the Supreme Court has been rather hostile to requirements of information or counseling being given to someone who is going to have an abortion. Both those people did agree that the parental consent and special master judicial bypass substitute would be constitutionally sound. There would be no problems with it at all.

So the report, which I recommend to you today, Report "C", the difference between it and the Cooper Compromise is that the age is up one year. Report "C" treats 17 year old young women as if they are adults and it treats 16 year old young women along with other adolescents. There were two reasons that I thought that age was appropriate, one was that it seemed to me that a 17 year old is much more likely to be leaving the nest out of high school, going to school, going to a job, than a 16 year old. The other thing that persuaded me to put this 16 year old age limit in it was that this legislature in 1979 voted on a similar bill of parental notification to set that age at 16 and under. That was the judgment of this legislature, House and Senate, it was passed in both houses, signed by the Governor, but never went into effect because it was struck down by a federal judge for reasons which aren't too important to the bill before us today. But the judgment of the legislature six years ago in picking the age, I grant you that picking any age is arbitrary, but the law has to set ages in various places, it cannot do otherwise, so the 109th Legislature set that age limit and it never went into effect so I thought that this Legislature might have the opportunity to reaffirm that judgment and have that age of 16 years and younger as an option.

So to recap, I sort of apologize for having a third report before you because it is my fault, and it is confusing with three reports, but I think the thing to keep in mind is that the first report, the original bill, which is before you as Report "B", that includes everyone under the age of 18, if the young woman is in particularly difficult circumstances and can't talk to her parents, she will go before a judge under that bill.

I think that the second, Report "A," the Cooper Compromise, which is the Majority Report before you, the age is 15 and under. It has the special master substitute for going before the judge and my problems with that bill are that I really don't think in my own mind after consulting the few experts that we did consult that it is going to pass constitutional muster. I just don't think it will.

There is a provision in our statutes which should require a court, when looking at a bill like this, to strike down only those parts which it deems to be unconstitutional but if it is to do that it has to decide that these parts are separable. There is just no way that anybody can look at this bill and say that I can tell you that this bill is going to be declared separable. The various parts will come apart by a federal court.

I think the last time a bill like this left the legislature, I think only one sentence of it was left standing by a federal court.

So, I really think the difference between Report "C", which I am recommending to you, and Cooper Amendment, Report "A," is the age difference. One is 15 and under; Report "C" is 16 and under; and Report "C" requires no counseling whatsoever. Not that counseling in

the circumstance for young women 16, 17, whatever is not necessary or desirable or very wise, it is just that I am really convinced, that according to the advice that we received, and it came in very late, I might say, a lot of people's positions had really solidified by the time this advice came into the committee, which was unfortunately true. I really am quite sure that Report "C" would be found constitutional. I don't think there is anyone around except for one person, whose very hurried opinion I was stunned at, who suggested that Report "C", and he is a very partisan person, and not in this legislature, but I can really assure you that Report "C" is constitutional. I don't think anybody here or outside is going to tell you that it is not constitutional. I think it will pass muster.

With regard to the Majority Report and its potential constitutional difficulties, I would like to read to you from the two opinions that we got. One was from a professor in constitutional law at the University of Maine School of Law, and with regard to that section of that bill, he had reviewed that particular bill, he said: "well, the Supreme Court has recognized the state's interest in making sure that the abortion decision of a minor is made with careful deliberation, the court has also been hostile to informed consent requirements which unreasonably places obstacles in the path of a person making a decision."

The head of the opinions division in the Maine Department of Attorney General, in a written response to my request to him to advise us on the constitutionality of the Cooper Compromise, he said: "it is possible that the bill might not be found to be unconstitutional. On the other hand, if the committee were interested in removing all doubt whatever, it could do so by removing the mandatory counseling provisions from the bill completely."

Report "C" takes him at his word, removes all doubt whatever and takes out the mandatory counseling provisions of the bill.

Everybody on my committee, individually and collectively, has agonized over this bill. I know that people have given it a lot of thought. I know that people have talked about it among the committee. They have talked about it with families, they have talked about it with the clergy, with attorneys they know on the outside, some of them I am sure have even prayed about it. I suggest to you that this has been a very, very difficult issue for every member of my committee and there is no way to make it easy. That is why there are three reports before you today. But we could not come to one mind on this. The difference between my committee and this House is that this House will have to come to one mind. The buck really does stop here. I wish you well in your decision.

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 thank the gentleman from South Portland for explaining the three reports. From a non-committee member's perspective, it was very helpful.

I feel compelled today to share with you a story a friend shared with me recently. When this particular woman was very young, she discovered she was pregnant. She was embarrassed, she was scared to death and, although she came from a fine family and while she knew they would be disappointed, she knew they loved her and would be supportive of her no matter what her condition was. But did this young woman tell her family of her pregnancy? No, she didn't tell her family, she didn't tell her boyfriend, the father of her child, instead she found, and without any great difficulty, a doctor who performed illegal saline abortions. This incident happened 15 years ago in rural Maine so it is not a big city story. It happened in our back dooryard. She went to the doctor

alone and she waited in his outer office and, as she waited, she thought about all the things that could go wrong with her that day. No one knew where she was. She could hemorrhage and bleed to death, or if the doctor misjudged, she could give birth to a severely retarded and/or deformed child. Perhaps this abortion would prevent her from having children in the future. Before her turn came on the operating table that day, she left. She did face her family and her boyfriend and they were wonderfully supportive. She overcame the embarrassment and the humiliation of the untimely pregnancy and had a normal healthy child. This story has a happy ending.

My point is, if this 17 year old girl chose not to face her family and her friends and found someone to perform an illegal abortion 15 years ago in this state, you can bet there will be available abortionists today and many with no medical training. I hope my daughter feels she could come to me should there ever be such a crisis in her life. I would also understand if she didn't. But I would feel much safer knowing she received the appropriate medical attention and not 30 minutes in a backroom at the hands of someone performing an illegal task.

If we pass this legislation today, we are providing no alternative to many, many young woman. For this reason, I ask for indefinite postponement of this bill and all accompanying papers.

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I just wanted to point out to anybody in case my long remarks may have confused things is that out of 13 members of the committee, Democrat and Republican, Senator and Representative, there was not one member who signed this bill ought not to pass. There was no one who felt that this problem that exists in Maine now, as the result of a series of decisions more than anything else, isn't something that ought to be remedied, the difference was on the remedy. Not one person saw fit to try to kill the bill in committee.

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

Representative BOUTILIER: Mr. Speaker, Ladies and Gentlemen of the House: Pose a question through the Chair if I may? If we vote against the motion to indefinitely postpone and that motion to indefinitely postpone fails, is Committee Amendment "C" the one that will be adopted?

The SPEAKER: The Chair would answer that that is impossible for the Chair to respond to since he doesn't know how legislators will be voting. That will be in the possession of the members here. They may choose House Report "C", "B" or "A" but the pending vote, if the motion to indefinitely postpone does not prevail, will be taken on the motion of the Representative from South Portland, Representative Kane, on House Amendment "C" first.

The Chair recognizes the Representative from Windham, Representative Cooper.

Representative COOPER: Mr. Speaker, Ladies and Gentlemen of the House: I just want to encourage you to vote against the motion to indefinitely postpone Committee Amendment "C." I believe if you do vote to kill this amendment, it will also wipe out all of the parental consent bills. I hope that you will vote against this amendment so you can hear the other bills. I also hope you will vote against the committee amendment itself but, at this point, please vote against the motion for indefinite postponement.

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

Representative STEVENS: Mr. Speaker, Men

and Women of the House: I stand to support Representative Cahill's motion to indefinitely postpone this bill and all its accompanying papers. Of all the bills that have come before the Maine House in my three years here, this bill has the greatest potential to hurt the constituents that are nearest to me, my three daughters. I stand as a parent, the mother of three daughters, and I do not wish to have the Maine House mandate what these three girls have to tell me if they should ever be in some of this real serious troublesome times that any young woman can have.

Certainly these bills have the power, the potential to protect young women in the State of Maine. No one denies that. No one denies the intention the sponsors of the bill and the supporters of the bill to protect the young women in the State of Maine. I firmly believe from my perspective as a mother and from knowing so many girls in this age bracket, that it has a greater potential for harm.

All of us know the potential to harm a child from the disruptive violent family. Everyone knows that potential to harm that child who has to tell the parent. My concern is, of course, with them but it is also with the middle class, high achieving, high standard families that all of us know perhaps better than the other families. How about that youngster who doesn't want to disappoint that family? Who is afraid to go to the judge, the man in black, the authority figure, the master, any of the above? The risk is just as great for those children. What courses of action are open to those children, when they are faced with the possibility of that unwanted pregnancy, to tell their parents, to disappoint their parents?

From my perspective, I know three different kinds of children, as all of you do who have children of your own. I have the dutiful, obedient, responsible child. I also have a young rebel who lives in my house, who defies all authority. If she thought that these were her choices, I worry and fear that her choice would be out the window, down the road or to the alley. I resent, from a personal point of view, that the Maine Legislature should grow so old or so wise that they have lost the ability to empathize with the young women of this state. This is a parental rights bill and I am interested in the rights of young women of the State of Maine, primarily. I am interested in the young women from Aroostook County, who can't take a weekend trip or two hour bus trip to New Hampshire, who has a ten hour bus trip and no money in order to avoid the process of seeing the judge or telling her parents. How about that poor woman?

Now, my children are in a blessed position, they have the resources and the ability to go to New Hampshire without telling me. I am lucky and they are lucky. But I fear for those who aren't so lucky. How about those young women?

I ask you, before you push the button, just for once if you can, make that quantum leap out of mature, responsible minds into the heart and soul of a young girl, of a young woman, what is best for her? Does she want to have her choices narrowed at this most stressful of all times in her life? I don't think she does.

In the 12 years that Maine has had abortions, there has never been one judgment against any doctor, no liability found for performing an abortion. Do we need this law? Is it going to help the young woman or is it going to make some parent feel better or feel more in control? Don't we all hope and fervently pray that our children come to us with their problems? I do. I hope that more than anything else. But I can't believe that passing this law is going to guarantee me that. I think the potential for harm is so great that I really hope you support the motion to indefinitely postpone.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: With all due respect to those who urge indefinite postponement, I think it is absolutely premature at this point that we vote to indefinitely postpone this bill and all its papers. We have not had the debate on Report "A"; we have not had the debate on Report "B." In all deference to the signers of Report "A" and Report "B", we will be getting up and explaining our positions to you in due time.

I ask you to vote against the motion this evening so we can go on with the sensible and rational explanation of why we signed the reports that we did, why we agonized over the decisions that we made and why we have an obligation to present it to you.

The SPEAKER: The Chair will order a vote. The pending question is the motion of Representative Cahill of Woolwich that the bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

44 having voted in the affirmative and 68 in the negative, the motion to indefinitely postpone did not prevail.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I think now it is in order to ask you to vote against the acceptance of Report "C." The distinguished Chairman of the Judiciary Committee has presented his report to you.

I am a signer of Committee Amendment "B." In the Committee, it is known as the Carrier Report, after the gentlemen from Westbrook as the former Representative from Portland, used to say, Mr. J. Robert Carrier. It is not often that he and I sign the same reports out together as you know from this session. But tonight I stand before you in agreement with him, with the Representative from Presque Isle, Representative MacBride, the Representative from Bangor, Representative Lebowitz, the Representative from Belfast, Representative Drinkwater.

The reason that we are signing Report "B" is because it is the only parental consent bill before you tonight. The other bills are not really parental consent bills.

I cosponsored L.D. 1113 on the Maine Right to Life Committee and that bill was modeled on the Missouri statute that was upheld by the United States Supreme Court in 1983. It is the only bill before you tonight that is completely constitutional. It does not raise any constitutional questions regarding abortion and parental consent.

If you accept Report "A", you are accepting a bill that is clearly and I cannot stress that you enough, clearly unconstitutional.

If you accept Report "C", you are inviting a question before the Supreme Court, which at best for the scholars of this state and the Attorney General, can only guess that it might be constitutional.

If we entertain Report "A" or Report "C", we might just as well do what the YMCA Youth Legislature has done every year and pass fictional laws. They will never be implemented. It will never take effect. It will be enjoyed by one of the groups and it will wait three or four years in the U.S. District Court in Maine and will be found unconstitutional according to the Supreme Court decisions that have been handed down since *Row versus Wade* in 1973.

I would not sign those bill for a number of reasons. I would like to state some of them to you tonight. The people of Maine overwhelmingly support the idea that a minor girl's parents should give their consent before anyone performs an abortion on her.

In a poll conducted last July, 78 percent favored such a law. Clearly, the citizens of Maine recognized the need for a girl's parents

to be involved in such a critical decision and before she undergoes a major invasive surgical procedure. In fact, our laws in Maine, generally require the informed consent of any minor's parents to every medical or surgical procedure to be performed on that minor. But they do not clearly require such consent in the case of abortions.

A 1979 law relating to parental involvement was held unconstitutional by the Federal Court in Portland. But since that time, the United States Supreme Court has made it clear that laws requiring parental consent are proper and constitutional if certain safeguards are built in to allow a minor to consent herself if she is independent and no longer living at home, or if the court finds that she does not need to obtain her parents consent. The way is now clearly open for a constitutional parental consent law to be enacted. That is Report "B." L.D. 387 gives the legislature the opportunity to fill a gap in present Maine Law by clearly requiring parental consent to minors' abortions with certain limited exceptions.

This is what the people of Maine want the legislature to do. Report "B" has been carefully drafted and revised to meet all constitutional and legal standards required in a parental consent law. Now is the time to take action.

According to state figures in 1983 alone, 393 abortions were performed in Maine on minors with no assurance that the parents were involved or even informed of those abortions. In fact, 84 of those abortions were performed on girls age 15 and under. Alternative versions of the parental consent bill have been proposed but their thrust is to avoid parental consent rather than require it.

Report "A" lowers the age of consent from 17 to 15 and adds a special master procedure to the court procedure to bypass parental consent. This version also requires counseling procedure for girls age 16 and 17. We know from the Supreme Court decision that counseling has been ruled unconstitutional.

The other version, Report "C", does not include the counseling requirement but lowers the age of consent from 17 to 16 and includes a special master procedure as has been outlined by the Representative from South Portland.

Legislators should vote for L.D. 387, Report "B" and not for either of the other versions for the following reasons: neither the "A" version nor the "C" version is really a parental consent bill for minors' abortions. They are only watered down versions of what Maine people think to be necessary.

Reducing the age below 17 reduces the coverage of the law missing many of the cases it should address. Might I add, ladies and gentlemen of the House, that only 20 percent of the abortions performed would be covered under Report "A", the Cooper Amendment. Approximately 50 percent of the abortions performed in Maine would be covered under Report "C", the Kane Amendment.

Our bill, Report "B", covers all abortions performed on minors, approximately 400 of them in this state. The age change discriminated between some pregnant minors and others without any rational reason to do so. Are 16 year olds that much more mature than 15 year olds? Are 17 year olds that much more mature than 16 years olds? This change might give a court one more reason to strike down the law. The age changes fly in the face of the general legal rules of informed consent and also contradict efforts made by the legislature to protect minors and even young adults such as our laws regarding legal drinking age and drunk driving.

The counseling requirement of the Cooper Bill, most legal experts agree is unconstitutional. The special master procedures is also likely to make the law unconstitutional. No court has ever approved of such a procedure and the evidence from Massachusetts and other states with parental consent bill is that

a court procedure works adequately. We know that such a procedure passes constitutional muster. Why should we in Maine experiment with some new procedure that may be unnecessary and may jeopardize the laws we enact?

The people of Maine overwhelmingly support parental consent to minor's abortions. We have in Report "B" a carefully crafted law that will clearly establish such a requirement in a way that the courts will uphold constitutionally, if challenged. The only effective alternative proposal will be to gut the parental consent statute and assure its defeat in court. I believe the only responsible and effective version of parental consent is Report "B." If we pass any other version, I can practically assure you tonight, ladies and gentlemen of the House, that it will never take effect, that it will not prevent one abortion and it will not cause one child of 15 or 16 or 17 to go to her parents to seek consent or to a court. If you believe in parental consent, I urge you to vote against Report "C" and to adopt Report "B."

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

Representative COOPER: Mr. Speake, Ladies and Gentlemen of the House: We have heard a lot of talk tonight about parental consent. The fact of the matter is, none of these bills require parental consent. It is unconstitutional to require parental consent. It has been struck down every time it has been tried. That is why all of the reports require a bypass.

In the case of Report "B" it is a judicial bypass and the other two reports there is a master bypass or no bypass required. It is a bit confusing because you have a rainbow of paper before you, eight or ten sheets I guess, with an incredible amount of misinformation in it. I can't take your time tonight at ten minutes after seven to try and dispute all of those but clearly if you have any question about the material that has been handed out, please feel free to ask questions.

I also had one handed out but it is a little black and white thing that was printed at my own expense so you probably can't even find it amongst all that stuff.

It has been confusing to our constituents also. There is a weekly bulletin that is put out by one of the lobbying groups here and a few weeks ago they had an article about parental consent, not the one that talked about the Cooper amendment, it was a week or two before that, in which they gave a stirring image of parental consent and what it would do in a loving family and how they would nurture and take care of the teenager who has an unwanted pregnancy. That went out also to all of their constituents, all of their flock, as it were. I received a lot of letters after that as I am sure all of you did. The only catch is, they never once mentioned that you can go to a judge and get your abortion without the parent ever knowing about it.

The Majority Report is one of that stresses compassion, I think, for the teenager that finds herself with an unwanted pregnancy. That is why we included counseling, done by a professional counselor, somebody who is trained and skilled in that area. The masters program is not something new and unique, it is used more often in federal courts than state court but it is not something we created out of whole cloth. We have tried to take great care to make sure that it is constitutional to the point that we solicited three legal opinions, none of which have clearly said it was unconstitutional. They all indicated that, in fact, there may well be no legitimate problem with it.

The amendment, under Report "A", requires the master procedure for those that are under the age of 16. They would simply go to the court and they would be scheduled by the Clerk of Courts with the master within three days to get the counseling necessary. The

master would then file a written report with the court within two days and it should be a quick and easy way of dealing with the problem.

The counseling that we have put in there, we have mandated in statute that it be given objectively. We don't want any counselor trying to convince a teenager that she should have an abortion or should not have an abortion, but rather that they should give her all the information that she needs, letting her know that she can withdraw — the counseling incidentally, would apply to all of those minors letting them know that they can withdraw a decision to have or not to have an abortion at any time within the time frames that are legal, that they can discuss all the alternative choices of the pregnancy. I asked that agencies be included that offer birth control counseling, which I was laughed at a little bit by a few people, as closing the door after the horse is out. However, there is a high percentage of people who get pregnant again after having their first. So, it seemed natural and logical that we ask that they be informed of birth control methods if they so desired.

We also stipulated that we wanted the counselor to discuss with the minor the possibility of involving the parent in the procedure because we feel that is very important. Although you cannot mandate it, we could at least ask that the counselors be encouraging to those minors who wish to discuss this with their parents. And of course, giving them the opportunity to ask any questions that they might have.

The master for those under the age of 16 then would have to make a determination of whether the minor was mature enough to make this decision on her own or whether or not it was in her best interest. Those are the same two things that apply to Reports "A" and "B".

In a case of those that are 16 and 17, we felt that we should require them to get counseling the same counseling before they could get an abortion, again, encouraging them or at least exploring the possibilities of involving the parent in this process.

I hope I have explained why we chose a master instead of a judge. We just feel it is much more compassionate and much more effective. But aside from that, the judicial bypass doesn't work in Massachusetts as has been cited as the example of where this program is in place is a good example of why it doesn't work. In Massachusetts, between April of 1981 and August of 1984, 1,900 minors sought bypass approval from the judge. Of those 1,900 minors, only ten petitions were denied, and nine of those on appeal were approved, the one remaining left and went out of state before the appeal process could take place. The other aspect of that is that there are more teenagers going out of state to get an abortion than are going to the judge for bypass. Almost twice as many go out of state to get abortions as bother to go to the judge for a bypass procedure, simply because it is a very traumatic state, it is an additional step, it is a cost, so they go out of state and get their abortions. When they come home, there is no doctor that is familiar with what has taken place. If they do need follow up care, they are either going to have to try and go out of state again or seek a new doctor who is not familiar with what is taking place.

In Massachusetts, judges rarely spend more than 15 minutes with a minor and they have no guidelines that they are supposed to follow as they do in this bill. They are simply suppose to do two things, determine whether the minor is mature enough, or whether the abortion would be in her best interest. Under our bill, we feel that the counseling would at least inform the minor of all of the options available and the other things that we have listed.

I would also point out that we are dealing with teenagers who are at a very vulnerable

stage. Pregnant teenagers are seven times more likely to commit suicide than other teens. Requiring them to go before a judge in his black robe in the courthouse, where criminals go, would be devastating to a minor.

I would ask that you keep these factors in mind, think of the young girl who is pregnant, who is seeking help and who feels her only choice is to go to a judge because she is afraid to go to her family. Think of what it would mean to her to go to a psychiatrist or a psychologist or a social welfare worker who could help her, who could understand her problems and give her counseling or referral at least if she is in such an emotional state that she is going to need further counseling.

I hope you will defeat both Amendments "B" and "C" and support the Majority Report Committee "A".

The SPEAKER: 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 Report "C" so that we can adopt the Majority Report of the committee, which is Report "A".

My good friend from South Portland has stated that the committee agonized over this issue. To say we agonized, in my opinion, is a major understatement of what our committee has been through for the past three months. I mean all 13 of us, regardless of which report we are on. All three of us asked ourselves the very same questions that are now running through your mind and through your hearts. I empathize frankly with you having to face this issue, not only at this time of night, but having to make a decision in so short a time. Unfortunately, not all of the information that has been given out, either verbally or in writing, has been totally and completely accurate.

I have had a difficult time with this issue personally because I see it from various perspectives. For the years prior to my service here in the House, I was a teacher and I taught kids in Jr. High and High School, and worked for eight years with kids between the ages of 12 and 18. I saw this issue also as a woman having dealt with my own pregnancy. Fortunately, it was wanted and fortunately, we were all happy with the results. But I also dealt with this issue as a mother, as a mother of a child who is only nine, and unlike the Representative from Bangor, I have been unable as of yet to determine just how rebellious she may or may not be. She indicates a certain amount of assertiveness but I am encouraged by that.

I had to place myself in the position that I felt most comfortable with and that is as the mother of my daughter and I asked myself throughout the debate, when we were listening to all of the reasons why an ought not to pass report ought to be signed out of committee, they pointed out to us that although many teenagers become pregnant, not all of those teenagers opt for abortion and of those teenagers that opt for abortion, a minority do so without parental involvement.

We heard all of the arguments as to why we simply ought to kill this bill in committee. Then on the other hand, we heard all the arguments as to why this bill was so important from the parents perspective. So, I began to examine the entire issue from that perspective, from my perspective as a mother, of a daughter not yet a teenager, but who soon will be and who will face the trauma of being a teenager and hopefully, not of being a pregnant teenager. But I asked myself, what would happen to my daughter should I not be there for her, for whatever reasons? If my daughter had to face the law that I was going to enact, which law could I, in good faith, feeling good about what I had done, vote for. I opted for Report "A". It was presented to the committee by Representative Cooper. My reasons for opting for that

was that I felt it was imperative that a young girl, who finds herself pregnant, be able to talk to someone about that pregnancy. I mean someone other than her 16 year old friend. And if that young girl who falls through the cracks and is not able to go to her family for whatever reason, be it the worst circumstances in the case of incest or be it in a circumstance where she fears physical repercussions on behalf of her parents, what would be the best system for this daughter, this girl to have to go through? I thought it was imperative that she have someone to talk to and this bill provides for a counseling bypass. If my daughter is 16 or 17 years old, she has to go to a counselor who is licensed by this state. We have laid out quite clearly in the bill the things that need to be discussed including the option of going to a parent or guardian and, in some cases the state may be the guardian if the state has stepped in and removed a child from a home, that was one option.

Yet I recognized having taught Jr. High that there is an incredible difference between Jr. High kids and high school kids in level of maturity. As a matter of fact, I was amazed, frankly, as a Jr. High teacher to find out how young, young women mature. But I recognize the fact that there is a difference and that we could establish a differential in age. So, I opted to go along with the idea that, if you are under 15 years of age and under, you would go through a judicial procedure that I felt was compassionate. I could not, in my farthest imagination, imagine my daughter standing before a judge in a courtroom and laying out to him all of her intimate thoughts, confusion, fears, etc., etc., etc.

I opted for Report "A" because I felt that it did what we were hoping to do, encourage parental involvement in this decision making process and yet allow for a compassionate decision. Hopefully, having once entered that counselor's office that she would continue that correspondence, that communication that she has developed with some adult.

It would be my dearest wish that all young women, who found themselves pregnant, could go to their parents. You know and I know that not all parents are loving, warm, compassionate and understanding. I can assure you that if my daughter came home and announced that she were pregnant, I would be quite disturbed. I certainly would not condone that by any stretch of the imagination, but I believe firmly I could deal with that.

There are parents here in the State of Maine that cannot deal with that, not only can they not deal with that, we have thousands of cases a year of parents who physically and sexually abuse their children, as of right now.

Before I end, I would like to make one point perfectly clear. A couple of my comrades have attempted to do that. None of these bills mandate parental consent. Not one of the reports mandates parental consent. We can't do that. But what each of the bills says is that, if you don't have parental consent, there is a judicial bypass available. Each of the three bill offers that teenage pregnant girl an opportunity to bypass her parents. In section three of each amendment, you will read verbatim, each bill says the same thing, "parental or court consent" required prior to performing an abortion on a minor. Each and every report says parental or court.

It is not true that only one report offers you parental consent, they all say parental consent or a court bypass.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: I would like to comment briefly on some of the discussions especially concerning constitutionality. As you know I am a signer of the Cooper Amendment, the Majority Amendment, Report "A". I want

to repeat again what you have already been told. This is not a parental consent bill. It is unconstitutional as defined in the Belotti case to require parental consent in every single situation. You simply cannot do it.

I would like to cite to you Justice Powell's words on this precise issue in the Belotti Case. He said, "Every minor must have the opportunity, if she so desires, to go directly to a court without first consulting or notifying her parents. If she satisfies the court, if she is mature and well informed enough to make intelligently the abortion decision on her own, the court must authorize her to act without parental consultation or consent. If she fails to satisfy the court that she is competent to make this decision independently, she must be permitted to show that an abortion nevertheless would be in her best interest. If the court is persuaded that it is, the court must authorize the abortion." That is the current state of the law as much as anyone can tell it. So, we are not dealing with parental consent. We are dealing with judicial bypass and what form of judicial bypass is most appropriate.

Now I am also going to tell you something which I think by now most of you already know, that this is an area which is extremely unsettled. Even now, the United States Supreme Court has taken up before it two more cases concerning abortion. This was just recently done. One of the cases, interestingly enough, involves a counseling situation very close to the Acquin Case in which counseling was found unconstitutional because it was found counseling tried to discourage abortion. It is interesting to see what the players on both sides of this issue think about the court taking these same type of cases up now.

I would like to cite to you briefly from a Washington Post article. "It is puzzling to try and figure out why the court took the cases," says Nandy Hunter, a staff lawyer with the American Civil Liberties Union, which is involved with both cases. It is very disturbing because the cases ought to be governed by principles established in the Acquin Case two years ago. "It is puzzling to us too, frankly," says James Bott, Jr., General Council of the National Right to Life Committee. It is not obvious what is going on.

I would also like to indicate to you that there is no bill, no report, there is no statute, you can enact in this House and in this Legislature which will guarantee constitutionality. Missouri and Massachusetts, which have passed a bill, which are part of Report "B", have been involved in a long series of constitutional litigation which is still ongoing.

I would also like to indicate to you that the Ashcroft decision, a decision which the Representative from Augusta, Representative Paradis relies on as the basis for constitutionality, has been a decision decided in the abstract. There has not been a real live minor before the court in the Ashcroft situation for the court to decide how it is going to vote.

What am I telling you outside of the fact that the area is very confused — what I am telling you is that you should look to the experience, it seems to me, of other states and try to decide on good public policy within the broad limitations that we can find as to constitutionality. But we should not place too much faith in any one statute.

It is my position that the Massachusetts Law, which is the law forming Representative Paradis report, goes too far. It requires judicial intervention in almost every case and this is useless. They are all granted, it is a waste of judicial resources, the judges hate it, it is extremely frightening to minors.

Let me make one other statement about counseling, which we like. I would cite to you the letter dated June 7, 1985 from the Attorney General to Representative Kane. The issue was, as the Cooper Compromise constitutional? The last sentence of paragraph two

states that, "It is my view that all of the provisions of the bill are likely to survive constitutional scrutiny." Now, is it possible to guarantee that they will survive constitutional scrutiny? The law is simply too unsettled to do that. Are we going to be involved in litigation no matter what passes? Of course, we are. That law will be attacked, no matter what we do instantaneously, in the courts and don't think that it won't be because it will be.

What you have to do, I think, and what I would recommend you do, if you like this concept, is to go with the most moderate, the most measured, the most reasonable report. That is the Cooper Compromise, Report 'A'.

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

Representative MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: This is the first time that many of you will have voted on an abortion issue in the legislature for we have not voted on one since the session in the 109th Legislature. That was my first term. I found the decision a most difficult one at that time and I find it a most difficult one today.

As you have been told, our committee has spent many long hours trying to decide just what to do about that unemancipated minor girl. We studied the whole issue of parental consent and the alternatives very carefully. I think it was amazing to note that no one signed an "Ought Not to Pass" Report. Everyone was able to accept one of the three reports, all of which, as you have heard, require either parental consent or an alternative with various ages involved.

I had a very open mind when we heard the bill, knowing only that I wanted to accept some form of a parental consent bill. Teenage pregnancy is a very real problem in Maine and seems to be increasing. Possibly, just possibly, one of these bills could serve as a deterrent for getting pregnant. If a girl has to face her parents or a court alternative to have an abortion, perhaps she will give a little more thought to pregnancy.

I finally signed the original bill as the committee amended it requiring parental consent for an abortion under age 18 or petitioning the court in a completely confidential hearing.

If my daughter was this age and had to resolve a pregnancy, I would like to be with her through this traumatic decision. If it were determined she would have the abortion, I would like to be there in case she had a physical complication or emotional problems. If she decided to carry her baby to full term, I would like to be there to help her through that difficult time too.

I feel a minor really needs a parents support whenever possible, particularly with a decision as important as this one. She has to have parental consent for most school functions and for most medical procedures, not by statute but by rule and regulation. Why then should she not have parental consent for something as serious as an abortion?

If there were reasons why I should not be consulted about a daughters pregnancy for her own good, then she would have the court alternative. Having selected one of the alternatives, she then would be better prepared, I feel, to make her own decision.

The early and middle teen years are difficult ones with young people faced with many uncertainties and decisions. Consequently, I feel those unemancipated minors, 17 years or younger, do need parental concern and should follow this procedure for resolving a pregnancy.

This bill has been constitutionally tested and it was upheld by the U.S. Supreme Court. I think any of these bills probably will continue to be challenged, however.

Ladies and Gentlemen I have struggled with my decision for a month. This is a very personal choice and I hope you will give careful consideration to your decision.

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

Representative CARRIER: Mr. Speaker and Members of the House: In concern for all the people involved in their personal feelings and their personal experiences, I would suggest to you and ask you to vote against the acceptance of Report "C" so we can truly discuss the other reports, which at this time I think is the issue on "C. There has been a lot of information given out but I don't want to expand at this time. I just hope that you vote against the pending motion and vote not to accept Report "C".

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

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to belabor this point because you have listened very patiently and I am sure that you have absorbed everything that everyone has told you about the agony that we have been through and you now have those same agonies.

I would just like to point out to you the differences in these bills that have not been pointed out at this time.

Report "C" has an age of 17 years. Report "A" has an age of 16 years and Report "B" has an age of 18 years. This might be something that you would all like to consider in your deliberations.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I feel that I am very privileged to have an opportunity to speak to you today because many of you know that I am an adoptive parent and that I am privileged to say that I have a young daughter, who today is 13 years old. Listening to this debate today, I happen to think that the mother of my daughter just happened to turn 15 years old at the time. I don't know what made her give this child up for adoption but just maybe, she had the courage to go talk to mom and dad. Just maybe they encouraged her to go to an adoption agency. I often think of this young girl who decided to give this child up for adoption because she made two people happy. I think she, too, must think of this moment that she went through in her life. But I think, for me, the one consolation this young girl has today is that she gave life and did not destroy it. For that reason, she made two people extremely happy, my wife and I. I can't tell you the happy moments when I look at my daughter. She knows she is adopted, she knows of the heritage that she is of, and I know that I am not able to speak to you on the legal aspects of it because I did not follow the bill through. But I just hope that the reason that I am a father today is that just maybe that young girl of 15 years old took the time to talk to mom and dad.

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I think Representative Allen is 100 percent right. All three reports ought to be called "An Act to Encourage Parental Consent" because that is what each one does. The question now is whether or not the present law discourages the involvement of the parents in this situation. I will give you two bits of information from the hearing and the many letters we had — there is a doctor in Penobscot County, who performs a lot of abortions on adolescents. I think that he is a very conscientious man and a very honest man and what he said was, virtually all of the adolescents under 18, in his practice, the parents were eventually involved before the abortion. Maybe not when the young woman first came to him but before the abortion.

On the other hand, in Cumberland County, there is a facility that does abortions and a woman from that facility wrote to me and I still have the letter, said that up to 42 percent of all adolescent clients eventually involved their parents. It seems that it is probably likely that some people try harder than other people. The current law discourages, this law will encourage.

Let me try to explain where we are on the three reports — Representative Priest talking about Report A, the Majority Report, — the difference between "C" which we are going to vote on right now and the Majority Report, the differences are two: that age is 15 and under; Report C is 16 and under. The other very, very serious question is whether or not, after all this, we are going to send something out of here of really dubious constitutional status. I think that the counseling requirements that the Supreme Court has viewed with such hostility in the past, that resemble the counseling requirements in that bill, are enough to make the few experts that we consult, question that provision. Representative Priest read you the sentence from the opinion: "it is my view that all of the provisions under the bill are likely to survive constitutional scrutiny." A more important sentence is on the following page: "if the committee were interested in removing all doubt whatever, it would do so by removing the mandatory counseling provisions from the bill completely. "Report C and Report A differ in those two regards.

The other report, which Representative Paradis spoke of, is the most sweeping and the most drastic. It is, I think, of unquestionable constitutionality. It involves everyone under 18 and anyone who doesn't talk to his or her parents or legal guardian goes before a judge. It is unquestionably the most drastic.

Representative Priest said that there is nothing that we can pass here that is an absolute sure bet — well, that is true but there are close to sure bets and I would say Representative Paradis' bill, Report B, is that. Then there are really, really long odds. I think the Majority Report, Report A, because of that counseling provision, is very, very chancy. Not because of my own wisdom but because of the responses from the experts that we consulted, I think that Report C is almost unquestionably constitutional.

Representative Jalbert of Lisbon 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 Kane of South Portland that the House accept Report C. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 188

YEAS:—Boutillier, Cashman, Kane, Lisnik, Macomber, Manning, Mitchell, Murray, Nadeau, G.G.; Nadeau, G.R..

NAYS:—Aliberti, Allen, Armstrong, Baker, A.L.; Baker, H.R.; Beaulieu, Begley, Bell, Bonney, Bost, Bott, Bragg, Brannigan, Brodeur, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carroll, Carter, Chonko, Clark, Coles, Connors, Connolly, Cooper, Cote, Crouse, Crowley, Davis, Dellert, Descoteaux, Diamond, Dillenback, Drinkwater, Duffy, Erwin, Farnum, Foss, Foster, Greenlaw, Gwadosky, Hale, Handy, Harper, Hayden, Hepburn, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Hoglund, Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Kimball, Lacroix, Lander, Law, Lawrence, Lebowitz, Lord, Mac-

Bride, Martin, H.C.; Masterman, Matthews, Mayo, McColister, McGowan, McHenry, McPherson, McSweeney, Melendy, Michael, Michaud, Mills, Moholland, Murphy, E.M.; Murphy, T.W.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pines, Pouliot, Priest, Racine, Randall, Rice, Rioux, Roberts, Rolde, Rotondi, Ruhlman, Rydell, Salsbury, Scarpino, Seavey, Sherburne, Simpson, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, Webster, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

ABSENT:—Daggett, Dexter, Paul, Reeves, Richard, Ridley, Small.

10 having voted in the affirmative and 124 in the negative with 7 being absent, the motion did not prevail.

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

Representative CARRIER: Mr. Speaker, I now move the acceptance of Report B.

Mr. Speaker, Ladies and Gentlemen of the House: I have held back on this debate because I think we got away from the actual issue. I want you to know, like others on the committee, that we might be divided on the Reports but our main idea is to find something that is needed but it might just be in the difference of approach.

Myself and four other members of the committee signed Report B. I truly believe that this is the real parental consent bill before this House. When parents have to give their written consent for their child to have their ears pierced or to go on a camping trip and many other things, I think there is nothing more serious than the health of a young girl who finds herself pregnant. I find that the committee report that we have, contrary to what other people said, that this is a parental consent bill. If you are interested, just look on the first page, under Section 2, Line 34 and keep going on the first paragraph which says: "that the attending physician has secured the informed, written consent of the minor and one of the parent or guardian." If that doesn't involve the parent and it is not parental consent, why would the parent be in there?

Let me explain to you briefly some of the things that have been said, different viewpoints, which I will try to correct. Let me explain to you a little bit what Report B does. If the girl finds herself pregnant and she is willing to talk with her father and mother or whatever, they agree on an abortion, then they don't even have to go to court. They don't have to see a judge. This is perfectly written and legal so it isn't mandatory that the girl will end up in court and be afraid and everything. Usually there are two reasons that she might want to go to court if her parents refuse or won't even talk to her or refuse to give their consent to the abortion, then there is an alternative of her applying to the court to get an abortion. It is not as easy as was said here for her to get an abortion once she gets in front of a judge. They talk about black robes and constitutional problems and everything — what are we here in a mortuary place talking about black robes, what is wrong with anybody wearing black?

One of the reasons is that she will have to have real good evidence that she needs the abortion for her own welfare. Let's say that her parents are abusers — I don't like that because the parents have been pictured too much in this legislature and others as the villain and all they do is provide. But if she has been abused by her parents, she can go to the judge and, in his mind, an abortion would solve her problem, he could then give her the go ahead on an abortion. If she cannot satisfy the judge, he will not issue a consent for her to have an abortion. It is as simple as that.

If you want to take care of these children, and most of us have had children, perhaps they are grown now, or perhaps they are in the stage where you are going to be faced with these problems and I hope you aren't because we don't deserve this kind of headache — the thing is, ladies and gentlemen, this particular bill that we promote does not give counseling. Let's not fool around with counseling. To remind you of how things were regarding counseling, recently this House voted a bill which provides counseling along that line. We had a bill in here for the funding of abortions and wisely the committee that the bill went to made it an advisory counseling service for all these children that might be in trouble and that is good. That was really a good point. I was in favor of that.

We have to differentiate between the immaturity of the young girl and the wisdom of the parents. We don't talk about super parents, we just talk about parents that care for their children, that care to guide them, even if they do something wrong, they reaccept them into the house and this is what this bill is about. If you go the other way, the other amendment, which forces the kids into en masses and everything else, that will not accomplish the purpose that it should. If the pregnant girl has a child or is pregnant, the parents should be there to take her back or at least help her. I can almost assure you from experience in others that no matter whether it is pregnancy or other things, the parents, as a rule, are always there to help both mentally and physically and financially. So, this is roughly what this bill is all about.

I had a lot of nice things listed here but it is a pretty emotional subject. Some people said that there were physicians at the hearing and they were in favor of this. Of course, they were in favor of this, some of them are making a fortune out of abortions. They have to live with that stuff.

There also was a petition from 51 physicians that were against this and were for parental consent. It doesn't go all one way.

I want to give credit where credit is due — this bill is a merger of L.D. 1113 and 387. 387 was my bill but if you want to read something interesting and something that might explain to you our purpose on B, I suggest to you that you take your bill, 1113, and read the Statement of Fact. The Statement of Fact hits you right at the heart because it explains the feeling between the pregnant daughter and her father and mother. The word "resent" is not the word I wish to say but to put some kind of a label on parents that make you look almost like villains, don't get pregnant, don't want them back. I don't know what my reaction would be, and maybe you don't know either, but let's just hope that those type of situations do not happen and that you are not put into that predicament. There are plenty of other things they do that can bring you just as much grief. Like I said before, we don't deserve that.

I hope you can support this bill. Under the Massachusetts law that they passed, they claim that it has reduced abortions by 51 percent so parental consent is not bad, it is a way to help the young people. You want them to come to you even if they do wrong. We have done things wrong at times and we were forgiven. We have survived and we learned from our mistakes and probably that has helped us to promote the decent things of life. I do hope that for the physical and well being of the young pregnant girl, I do hope that you vote for this bill. This will give them an opening if you vote for acceptance of Report B. This will give them a free opening to get consultation and get help that they need at that time.

At this point, Representative Michaud of Medway, assumed the Chair to act as Speaker pro tem.

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

Representative COOPER: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against Report B, which is presently before you. The good Representative from Westbrook, raises some important questions, I think, that we should look at. One is that the parents with good, open, relationships with their families are going to have those children come to them and seek their advice and their support when they reach a crisis like this, an unwanted pregnancy. We don't want to cast aspersions on all families by saying that they are all abusers or offenders of one sort or another but there are families out there where the relationships have broken down. Perhaps an indication of a worst case family is the fact that when we got our State of Maine, Department of Public Safety & Crime in 1984 reports, I looked through it and saw the 1,395 cases of assault reported by law enforcement agencies in Maine identified as occurring between household or family members. Now, those are assaults within a family. There are many, many families out there where communication is bad, where the relationship within the family is bad and I think we want to make sure that the minors in those circumstances are not forced into going before a judge when there is a better alternative.

I would remind you again that in Massachusetts, where this law is in effect, the judges have virtually approved every case that has come before them. The abortion rate in Massachusetts has gone some but the birthrate has remained the same because those minors are going out of state for their abortions.

The reason we have age 16 and 17 for counseling is because they are at an age where friends and boyfriends or girlfriends have licenses, have access to vehicles and are going to go get those abortions. Sixteen, incidentally, is considered an adult in some ways. You can get an adult hunting license and get a firearm and go into the woods at that age. Sexual exploitation of minors is defined as those under sixteen. In Title 17a, again, minors are defined as being under their sixteenth birthday.

There are all sort of medical procedures done, birth counseling, birth control devices, venereal disease, I believe drug abuse treatment, these are all done without parental consent.

Again, I would urge you to vote against Report B so we could accept Report A.

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

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: This is the most controversial issue I think we have had for a long time. As a Representative for the first term, I have gotten more correspondence on this issue that we are speaking on tonight than anything else. It wasn't milk, it wasn't Workers' Compensation, it was the issue we are speaking on tonight.

I would like to read you part of a letter that I received from one of the parents. It said: "in reference to L.D. 1113, it is ironic that our minor daughter must have written consent to go on a class trip or to have her ears pierced but she can have an abortion without our consent. When you take this into consideration that this is what has happened and is happening through regulations probably at the school board level but some was done here at the legislature — it seems very strange to me that here is a decision that will affect these children all of their lives and yet, the parents will not have part of the say or at least talk with them." She goes on to state a little further in the letter: "lastly, the Supreme Court ruled on June 15, 1983 that the Missouri statute requiring that parental or court consent was constitutionally allowable, I think the amendment that we are discussing, Report B, is the nearest one I could get to that regulation or that ruling and I would urge you to pass Report B."

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

Representative ALLEN: Mr. Speaker, Men and Women of the House: I would like to respond very briefly to the Representative from Waldoboro's concern — I can assure you that all of us got that same letter and many others as you did and in response to the assertion that you need parental consent for getting your ears pierced, which by the way I didn't have, there is absolutely no law on Maine books at this time that mandates parental consent for having your ears pierced or going on a class trip or such thing. I just wanted to make that perfectly clear.

I would urge you to vote against Report B so we accept Report A and I would respectfully ask for a roll call.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Michael.

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

What is the cost of Report B? For that matter, what is the cost Report A since we suspended the rules by implication awhile back? At least I want to know what is the cost of Report B and A?

The SPEAKER PRO TEM: The Representative from Auburn, Representative Michael, has posed a question through the Chair to anyone why may respond if they so desire.

The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: In answer to the good gentleman from Auburn, Report A, if you will look on Page 11 at the top of the page, it says \$4600, that is the fiscal note.

If you will look at Report B on Page 6, it is \$15,000 and \$31,000 and the reason for that, if I may explain very briefly, is that in making a fiscal note, you must take the worst possible scenario. Report B deals with all minors, 17 and younger that would go to a court. In Massachusetts, only 23 percent of the minor go to court; the other 77 percent do not go to court, i.e., they go to their parents so if all 400 abortions of 1983 that were performed in Maine and went to court, the impact for court appointed attorneys, not the impact on the court but court appointed attorneys, would conceivably be \$31,000 for a whole year. That is not realistically possible because not all of them would go to court.

In Report A, we are only talking about 84 abortions in 1983. The impact on the court would be easily absorbed and that is why it is only \$4600.

While I am on my feet, I hope that you will accept Report B, not only so we can get out of here tonight at a decent hour, but so that we can end this debate. I don't think anybody really wants to debate this things ad infinitum. You pretty well know where you are. I complement everyone, the Representatives' who have spoken so far for their decency and their candor. I hope, when we vote, we vote for Report B. I will be voting green.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: If a child goes to the emergency room in a hospital for a throat culture for a sore throat, they have to have their parents permission before they will do it. I would ask you to vote for Report B and I move the previous question.

The SPEAKER PRO TEM: The pending question is "Shall the main question be put now?" This is debatable for not more than five minutes by any one member. Those in favor will vote yes; those opposed will vote no.

The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that we would not stifle debate today. I don't think we serve the interest of the people of Maine when we come down here and we get so impatient that we can't talk to an issue. If a person doesn't want to sit in this House and listen, they can go out into the hall and sit there. I have never voted for this motion, I think that it is a terrible motion and I hope you will all defeat it right now.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Michael.

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I voted at least two or three times this session to cut off debate but have a policy of doing that if no one objects so the opportunity to cut off debate would be if no one stands up and objects, I certainly do not object, so if someone stands up and says they want to speak some more, then I will vote against the motion. That is my policy.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Simply as a matter of courtesy, as a matter of policy and as a matter of precedent on an issue of this magnitude, I think it is discourteous at this stage of the game to put this question now. An issue that involves the kind of emotions that this issue involves ought to be discussed as thoroughly as possible. I hope you defeat this motion on the basis of principle.

At this point, Speaker Martin resumed the Chair.

The House was called to order by the Speaker.

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

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I think what we have just seen in the last few moments about moving the question, these microphones pop up, that if we have got 25 or 30 people to speak for five minutes on moving the question, then we probably will keep you in your seats for quite a long time. I, as a member of this Legislature, believe that we should never, never shut off debate in this House. I will never vote to move the question. I would hope that we would hear the message from the people who have spoke long and who have sat in their seats and heard the debate and those that have walked out and left the room. I understand you're troubled with this but I would hope we would never enforce or impose a gag rule on any member of this body. I would ask you to vote against moving the question.

The SPEAKER: The Chair will order a vote. The pending question before the House is moving the previous question. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

32 having voted in the affirmative and 81 in the negative, the main question was not put now.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: You have seen distributed before you just a few minutes ago a fiscal, an old fiscal note, to L.D. 1113, an L.D. which is not presently before us. Committee Report "B" is before us. This fiscal note is abhorrent to me and the tactics that were used to bring this out to this floor, I have not seen for seven years as a member of this body. I think it is totally unbecoming of anyone to mislead the House in debate. I would ask you

to disregard this fiscal note. The only fiscal notes that are accurate are the ones that were attached to the report, all three of them. They are based on substance and reality, not on hearsay. I hope you will disregard it in the best traditions of this House.

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

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

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I will ask you to bear with me a few more moments while we discuss this issue. I will then ask you to vote against Report "B". I would like to share with you my very personal reasons. A number of years ago, I worked as a counselor advocate, teacher and friend for young women, ages 12 to 19, who were pregnant and faced with a very grave decision. They needed someone outside their family to talk with, to share their concerns, to cry with, someone who would cry with them. They asked, above all else, at our very first meeting, each one, one after the other, and these were girls who had not chosen to share this with their family for whatever reasons and some of them came from families that have been loving, concerned, considerate and helpful and some of them came from families which probably would have asked them to leave the home, may have beaten them or may have done some other harm to them and would have been very, very angry, upset and perhaps irrational, but these girls, one after the other, asked me, if I were going to talk to them about telling their parents. Because if you are they said, I will walk out right now. I will not continue with your program. I have made that decision, I cannot tell my father, my mother, my guardian or some other relative who is responsible for them. You can't make me and I won't, I will find some other way. When I assured them that that was not my intent, I was not hired for that purpose, we went on to discuss the real issue at hand.

That experience over a period of time made me examine my own conscience and made me try to put myself in their shoes. What would I have done had I been a young girl faced with that decision? I came from a family, a single parent, my father died when I was very young, and my mother raised her children alone. She was a loving, wonderful mother, she would have supported me and she would have supported her other daughter. But I knew then, as I know now, that I would not have told her until afterwards. I am sure I would have told her in the end, but not until I had made my decision and gone through with whatever that decision had implied. The reason I wouldn't have told her is because I couldn't have taken the chance that she might have reacted differently, that she might have needed some of the strength that I needed for myself. I wouldn't have told her because I wouldn't have been able to bear the surprise, the hurt or whatever reaction she would have had. I needed to get on with my decision and I would have needed the compassion, support, the friendship, the loving arms of someone else, who would not have had that kind of emotional attachment to me as my parent had.

I know that all of you who are parents would wish that your child would come to you and you think in your heart that you would be able to give your child all your strength, all your support and all your help, but none of us know how we would react to our child in that situation. None of us can predict in a time of crisis

and a very emotional crisis how we will react.

I ask you to examine your consciences before you vote today. Examine them very, very carefully and try to put yourself in the position of your daughter or the daughter you may have some day or of some other young girl who is close to you. Think about the fact that she may not be able to tell her parent simply because she needs to do this on her own. She needs to find her own strength and she needs not to risk having to use some of that strength to help support her parents or bear the reaction of that parent because neither she nor you can predict what that reaction might be. I ask you to please reject Report "B" for the sake of all the young girls in this state.

The SPEAKER: The pending question before the House is the motion of Representative Carrier of Westbrook to accept Report "B".

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

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I request permission to pair my vote with the Representative from Pittston, Representative Reeves. If she were here, she would be voting no and I would be voting yes.

The SPEAKER: The pending question before the House is the motion of Representative Carrier of Westbrook to accept Report "B". Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 189

YEAS:—Baker, A.L.; Boutilier, Bragg, Brodeur, Brown, A.K.; Brown, D.N.; Callahan, Carrier, Carter, Cashman, Chonko, Clark, Connors, Cote, Crowley, Davis, Descoteaux, Drinkwater, Farnum, Foster, Harper, Hichborn, Hickey, Higgins, H.C.; Higgins, L.M.; Hillock, Jackson, Jacques, Jalbert, Lacroix, Lander, Law, Lebowitz, Lord, MacBride, Manning, Masterman, Matthews, Mayo, McGowan, McHenry, McSweeney, Michaud, Murphy, E.M.; Murphy, T.W.; Nadeau, G.R.; Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pines, Pouliot, Randall, Rice, Richard, Rioux, Rotondi, Salsbury, Scarpino, Seavey, Smith, C.B.; Smith, C.W.; Sproul, Stevens, A.G.; Stevenson, Strout, Tammara, Tardy, Telow, Theriault, Walker, Wentworth, Whitcomb, The Speaker.

NAYS:—Aliberti, Allen, Armstrong, Baker, H.R.; Beaulieu, Begley, Bell, Bonney, Bost, Bott, Brannigan, Cahill, Carroll, Coles, Connolly, Cooper, Crouse, Dellert, Diamond, Dillenback, Duffy, Erwin, Foss, Greenlaw, Gwadosky, Hale, Handy, Hayden, Hepburn, Hoglund, Holloway, Ingraham, Joseph, Kane, Kimball, Lawrence, Lisnik, Macomber, McCollister, McPherson, Melendy, Michael, Mills, Mitchell, Moholland, Murray, Nadeau, G.G.; Nelson, Nicholson, Priest, Racine, Roberts, Rolde, Ruhlin, Rydell, Sherburne, Simpson, Small, Soucy, Stetson, Stevens, P.; Swazey, Taylor, Vose, Warren, Webster, Weymouth, Willey, Zirkilton.

ABSENT:—Daggett, Dexter, Paul, Ridley.

PAIRED:—Martin, H.C.; Reeves.

76 having voted in the affirmative and 69 in the negative with 4 being absent and two paired, Report "B" was accepted and the Bill read once.

Committee Amendment "B" (H-409) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

The following items appearing on Supplement No. 14 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. 1128) (L.D. 1637) Bill "An Act to Adjust Bridge Capital and Maintenance Responsibilities" Committee on Transportation

reporting "Ought to Pass" as amended by Committee Amendment "A" (H-413).

(S.P. 566) (L.D. 1494) Bill "An Act Concerning Access to Medical Records by Prosecutors" (Emergency) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-280).

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

(S.P. 85) (L.D. 266) Bill "An Act to Modify Inequitable Income Eligibility Guidelines in the Elderly Householders Tax and Rent Refund Act and to Increase Income Eligibility to Conform with Other Federally Established Poverty Levels" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-281).

On motion of Representative Vose of Eastport, was removed from Consent Calendar, First Day.

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

Committee Amendment "A" (S-281) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-281) in concurrence.

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

#### Committee of Conference

Report of the Committee on Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act to Reduce the Hours Required for Master and Journeyman Electricians" (H.P. 419) (L.D. 599) have had the same under consideration and ask leave to report:

That they are unable to agree.

(Signed) Senator BUSTIN of Kennebec, Senator DANTON of York, Senator SEWALL of Lincoln—of the Senate.

Representative THERIAULT of Fort Kent, Representative RYDELL of Brunswick, Representative BAKER of Orrington—of the House.

Came from the Senate with the Report read and accepted.

Committee of Conference report was read and accepted in concurrence.

#### Papers from the Senate Non-Concurrent Matter

Bill "An Act to Prohibit Consumption of Alcoholic Beverages within 15 Feet of a Public Way" (H.P. 529) (L.D. 749) which was Passed to be Engrossed as amended by Committee Amendment "A" (H-405) in the House on June 13, 1985.

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

On motion of Representative Manning of Portland, the House voted to insist and ask for a Committee of Conference.

Sent up for concurrence.

The following item appearing on Supplement No. 16 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. 1077) (L.D. 1567) Bill "An Act Relating to the Income Tax Checkoff for Political Parties" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-414).

Under suspension of the rules, Second Day

Consent Calendar notification was given, the House Paper was passed to be engrossed as amended and sent up for concurrence.

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

The Chair laid before the House the following matter: Expression of Legislative Sentiment recognizing the Town of Eddington (SLS 270) which was tabled earlier in the day and later today assigned pending the motion to reconsider passage in concurrence.

Whereupon, the House voted to reconsider its action whereby SLS 270 was passed in concurrence.

Representative Bost of Orono moved the indefinite postponement of SLS 270.

Representative Murphy of Kennebunk requested a roll call vote on the motion to indefinitely postpone.

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 Bost or Orono that the SLS 270 be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 190

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

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

ABSENT:—Beaulieu, Brown, A.K.; Daggett, Dexter, Paul, Reeves, Ridley, Willey.

78 having voted in the affirmative and 65 in the negative with 8 being absent, the motion did prevail.

Sent up for concurrence.

#### Passed to be Engrossed As Amended

Bill "An Act to Require Parental Consent in the Case of Minors' Abortions" (H.P. 298) (L.D. 387) (C. "B" H-409)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended and sent up for concurrence.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Represent-

ative Carrier.

Representative CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I move for reconsideration of Report "B" and hope you vote against me.

Representative McCollister of Canton moved the matter be tabled one legislative day pending reconsideration.

Representative Strout of Corinth requested a vote on the tabling motion.

Representative Jalbert of Lisbon requested a roll call vote on the motion to table.

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 McCollister of Canton that this matter be tabled one legislative day. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 191

YEAS:—Allen, Baker, H.R.; Begley, Bell, Bonney, Bost, Bott, Brannigan, Cahill, Carroll, Coles, Connors, Connolly, Cooper, Crouse, Davis, Dellert, Diamond, Dillenback, Duffy, Farnum, Foss, Foster, Hale, Handy, Hayden, Hepburn, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Joseph, Kane, Kimball, Lacroix, Macomber, McCollister, McPherson, Melendy, Michael, Mills, Mitchell, Moholland, Murphy, T.W.; Murray, Nadeau, G.G.; Nelson, Nicholson, Priest, Roberts, Rolde, Ruhlin, Rydell, Simpson, Small, Smith, C.W.; Soucy, Stetson, Stevens, P.; Swazey, Taylor, Vose, Webster, Weymouth, Zirkilton.

NAYS:—Aliberti, Armstrong, Baker, A.L.; Boutilier, Bragg, Brodeur, Brown, D.N.; Callahan, Carrier, Carter, Cashman, Chonko, Clark, Cote, Crowley, Descoteaux, Drinkwater, Erwin, Greenlaw, Gwadosky, Harper, Hichborn, Hillock, Hoglund, Jackson, Jacques, Jalbert, Lander, Law, Lawrence, Lebowitz, Lisnik, Lord, MacBride, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McGowan, McHenry, McSweeney, Michaud, Murphy, E.M.; Nadeau, G.R.; Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pines, Pouliot, Racine, Randall, Rice, Richard, Rioux, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.B.; Sproul, Stevens, A.G.; Stevenson, Strout, Tammara, Tardy, Telow, Theriault, Walker, Wentworth, Whitcomb, The Speaker.

ABSENT:—Beaulieu, Brown, A.K.; Daggett, Dexter, Paul, Reeves, Ridley, Willey.

66 having voted in the affirmative and 77 in the negative with 8 being absent, the motion did not prevail.

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

Representative CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would vote for the motion to reconsider this evening. I think this issue has been debated enough. I think that it would be helpful if this body could have another day to think about this motion. I think Report "B" is probably the worst of all possible scenarios.

I request the yeas and nays.

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

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

The SPEAKER: The pending question before

the House is reconsideration whereby the bill was passed to be engrossed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL No. 192

YEAS:—Allen, Armstrong, Baker, H.R.; Begley, Bell, Bonney, Bost, Bott, Brannigan, Cahill, Coles, Connors, Connolly, Cooper, Crouse, Davis, Dellert, Diamond, Dillenback, Duffy, Erwin, Foss, Foster, Greenlaw, Hale, Handy, Hayden, Hepburn, Higgins, H.C.; Hoglund, Holloway, Ingraham, Joseph, Kane, Kimball, Lawrence, Macomber, McPherson, Melendy, Michael, Mills, Mitchell, Moholland, Murphy, T.W.; Murray, Nadeau, G.G.; Nelson, Nicholson, Priest, Rolde, Ruhlin, Rydell, Sherburne, Simpson, Small, Soucy, Stetson, Stevens, P.; Swazey, Taylor, Vose, Warren, Webster, Weymouth, Zirkilton.

NAYS:—Aliberti, Baker, A.L.; Boutilier, Bragg, Brodeur, Brown, D.N.; Callahan, Carrier, Carroll, Carter, Cashman, Chonko, Clark, Cote, Crowley, Descoteaux, Drinkwater, Farnum, Gwadosky, Harper, Hichborn, Hickey, Higgins, L.M.; Hillock, Jackson, Jacques, Jalbert, Lacroix, Lander, Law, Lebowitz, Lisnik, Lord, MacBride, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McCollister, McGowan, McHenry, McSweeney, Michaud, Murphy, E.M.; Nadeau, G.R.; Nickerson, O'Gara, Paradis, E.J.; Paradis, P.E.; Parent, Perry, Pines, Pouliot, Racine, Randall, Rice, Richard, Rioux, Roberts, Rotondi, Salsbury, Scarpino, Seavey, Smith, C.B.; Smith, C.W.; Sproul, Stevens, A.G.; Stevenson, Strout, Tammara, Tardy, Telow, Theriault, Walker, Wentworth, Whitcomb, The Speaker.

ABSENT:—Beaulieu, Brown, A.K.; Daggett, Dexter, Paul, Reeves, Ridley, Willey.

65 having voted in the affirmative and 78 in the negative with 8 being absent, the motion did not prevail.

#### Off Record Remarks

On motion of Representative Brown of Livermore Falls,

Adjourned to eleven o'clock tomorrow morning.