

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred and Twelfth
Legislature

OF THE
STATE OF MAINE

VOLUME II

SECOND REGULAR SESSION
April 3 - April 16, 1986
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The House was called to order by the Speaker.
Prayer by Reverend Peter Mars, United Church of Monmouth.
National Anthem by the Bucksport High School Band.
The Journal of Saturday, April 12, 1986 was read and approved.
Quorum call was held.

Senator: TWITCHELL of Oxford
DIAMOND of Cumberland

Representatives: CASHMAN of Old Town
NELSON of Portland
TARDY of Palmyra
MAYO of Thomaston
SWAZEY of Bucksport

ORDERS

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

ORDERED, that Representative Kerry E. Kimball of Buxton be excused April 10 and 11 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative ALLEN from the Committee on Judiciary on Bill "An Act to Amend the Insanity Defense and Certain Procedures Relating to Committed Insanity Acquittees" (H.P. 1494) (L.D. 2108) reporting "Ought to Pass" in New Draft (H.P. 1702) (L.D. 2397)

Report was read and accepted. Under suspension of the rules, the New Draft was read twice, passed to be engrossed and sent up for concurrence.

Ought to Pass in New Draft/New Title

Representative PRIEST from the Committee on Judiciary on Bill "An Act to Provide Funding through Fees and Trim Expenses of the Court Mediation Service" (H.P. 1655) (L.D. 2332) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide Funding for the Court Mediation Service through Fees" (Emergency) (H.P. 1703) (L.D. 2398) (Representative ALLEN of Washington - abstained)

Report was read and accepted. Under suspension of the rules, the New Draft was read twice, passed to be engrossed and sent up for concurrence.

Divided Report

LATER TODAY ASSIGNED

Majority Report of the Committee on Taxation on Bill "An Act to Make Certain Revisions in the Maine Tax Laws and Appropriations from the General Fund" (Emergency) (H.P. 1638) (L.D. 2310) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1700) (L.D. 2393)

Signed:

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Make Changes in the Maine Tax Laws and to Provide for Appropriations from the General Fund" (Emergency) (H.P. 1701) (L.D. 2394)

Signed:

Senator: EMERSON of Penobscot

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

Representative McCOLLISTER of Canton - abstaining.

Reports were read.

On motion of Representative Cashman of Old Town, tabled pending acceptance of either report and later today assigned.

ENACTOR

Bond Issue

LATER TODAY ASSIGNED

An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 to Provide Funds for School Construction Costs to Meet the Requirements of the Education Reform Act and for the Construction of an Activity Building at Augusta Mental Health Institute (H.P. 1695) (L.D. 2388)

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

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

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:

SENATE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (S-485) -

Minority (6) "Ought Not to Pass" - Committee on Transportation on Bill "An Act to Implement the International Registration Plan to Apportion Fees for Certain Commercial Vehicles" (Emergency) (S.P. 804) (L.D. 2019)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-485)

TABLED - April 12, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Motion of Representative THERIAULT of Fort Kent to accept the Majority "Ought to Pass" as amended Report.

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

Committee Amendment "A" (S-485) 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" in concurrence.

The Chair laid before the House the second matter of unfinished business:

An Act to Authorize a General Fund Bond Issue in the Amount of \$6,000,000 for Energy Improvements in State Facilities (BOND ISSUE) (H.P. 1590) (L.D. 2243) (C. "A" H-688)

TABLED - April 12, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

The Chair laid before the House the third matter of unfinished business:

An Act to Authorize a General Fund Bond Issue in the Amount of \$12,000,000 for Sewer Treatment Facilities (BOND ISSUE) (H.P. 1617) (L.D. 2288) (C. "A" H-687)

TABLED - April 12, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

The Chair laid before the House the fourth matter of unfinished business:

An Act to Authorize the Issuance of a Bond not Exceeding \$5,000,000 for the Financing of the Maine Inland Fisheries and Wildlife Acquisition Fund (BOND ISSUE) (S.P. 695) (L.D. 1781) (C. "A" S-481)

TABLED - April 12, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

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

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

Bill "An Act to Establish a Universal Telephone Service Program" (S.P. 930) (L.D. 2317)

- In House, Bill and Papers Indefinitely Postponed in non-concurrence.

- In Senate, that Body Adhered to its former action whereby the Majority "Ought to Pass" as amended Report was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-464) in non-concurrence.

TABLED - April 11, 1986 by Representative WILLEY of Hampden.

PENDING - Further Consideration.

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I was going to table until later in today's session but I have no intention now of doing so. I think we should run this, don't you Mr. Speaker?

The SPEAKER: The Chair would answer in the affirmative.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I move the House recede and concur.

I have benefited from some additional information from Paul Fritzsche, the Public Advocate, which I feel I should share with you but I would like to just simply reiterate very briefly some of the points that I made the other day.

This bill definitely, in my personal opinion, is a good bill. It will, in fact, help out the elderly, and low income people who do, in fact, need help. I think some of these facts that have been given to me by Mr. Fritzsche will bear this out.

The letter is to Representative Harry Vose and is from Paul Fritzsche and the subject, of course, is this bill. It reads as follows, "Governor Brennan, the Public Utilities Commission, the Maine Committee on Aging, and I, all support L.D. 2317, which is An Act to Establish a Universal Telephone Service Program. We support it for the following reasons." (I might say that, although it is written to me, I also support it for these very same reasons.)

"Numerous changes in the telephone industry and many rulings by the Federal Communication Commission threaten to make basic residential service too costly for low income people. The percentage of poor people already that have phone service is about 10 percent less than the general public. This bill will provide the state share of a 50-50 state federal program that will reduce poor people's phone bills by \$4.00 a month or \$48.00 a year. Obviously, the poor people that I am speaking of could very easily be the elderly or the poor people that are under some of these other programs."

This bill absolutely does not increase the total amount of money received by any phone company as it was said by previous speakers.

For example, a poor person that had normally paid \$14.00 per month for basic service, including the

soon to be \$2.00 per month access charge, would now pay, under this bill, \$10.00 per month with the federal government paying \$2.00 and the state paying the other \$2.00. The phone company doesn't profit by this bill.

This bill only gives benefits to those who already participate in one of five existing public assistance programs and would not create a costly new bureaucracy required to do income and asset checks. In June of this year, the Federal Communications Commission will raise the residential access charge to \$2.00 per month and desires further increases in that charge in others. The enactment of this bill will not jeopardize funding for the University of Maine, contrary to what some have said.

Briefly, I would like to talk about the people that we are talking about here. Back in the late 20's and early 30's, and predictably the early 30's when I was a kid, I remember we thought it was a joke when we were in a depression and we used to ask the people, did you get your butter yet? It was one of the things we thought was real funny but it wasn't funny to those who had to stand in line to get that. Of those who did stand in that line were people from my hometown and perhaps your hometown that were brought up in an era where they worked six days a week, 12 hours a day, just to make ends meet. Pension plans were just not there, not like they are nowadays. These very same people went through some tough times, and I mean some really tough times. My father and some of the fathers and mothers of you people here, all of a sudden they are faced in later years with their only income, except what they saved themselves and perhaps invested in bonds if they were able to -- their only income is Social Security and a lot of people in my hometown, that is their only income. It is unfortunate because Social Security, as we all know, was never intended to be a retirement plan.

These are the people that I am interested in, these are the people that I am talking about that really need this telephone service. It isn't very costly, it isn't costing these people a thing, when we are talking about a fiscal note of \$1.5 million.

I do have an amendment that I can put on this bill that would say the initial fiscal note would be cut in half and the services or this program would start in January of 1987. I can't say a heck of a lot more about it except that I do hope you think of these people that are in the low income bracket and just making ends meet that are in need of a phone and use that phone for their recreation purposes, so to speak, because they are calling their different friends and it is a way of communication. I think they should have it.

I would hope you would support the motion to recede and concur with the other body.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: This is the same bill that we debated last Friday where I nearly tabled this right into Sunday. The facts have not changed at all since that time when we defeated it by a margin of more than two to one.

There are, I think, circumstances which should prohibit us from passing this bill. I think the major thing is that it is an entirely new program, one we have gotten along without up to this point. We are, I think, going to have big problems and I

think most people share this viewpoint -- when October comes and Gramm-Rudman effects descends on us again in trying to maintain the programs that we already have in effect. At this time, it doesn't seem practical to me that we would come up with a brand new program which costs \$1.5 million. I realize that \$1.5 million in comparison to the figures we are talking about in bond issues today is a pretty small deal but \$1.5 million here and \$1.5 million there, by and by, you have something substantial. This is \$1.5 each year and, as these fees go up, the pressure will be put on us to an even greater degree to increase the subsidy to the individuals and to the phone companies as time goes on. It doesn't stop at \$1.5 million, it is a never ending process.

For that reason, I sincerely hope that you defeat the motion to recede and concur so that we can stick by our previous decision. I do ask for a roll call.

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

Representative BAKER: Mr. Speaker, Members of the House: At a time like this, I sincerely wish that I was a real estate broker. If I was a real estate broker, I am quite sure if I were to get emotional about this bill, you would probably think I was being very serious and not putting on a show for you.

The fact of the matter is that the federal government, through the FCC, has instituted an access charge. It was the desire of the FCC to place the access charge to \$6.00 a month. Congress, in its wisdom, was able to hold it down to at least \$2.00 a month.

As I stated the other day, if the State of Maine desires not to put any money toward meeting the needs of people who are hit with this access charge, that will send a signal to the FCC that it is not a major concern and will simply cause pressure to raise that access charge possibly to \$6.00.

There is something I wish to point out here to this body. In the last session of the legislature, we passed a law establishing what is known as universal telephone service. What we stated was that it would be the policy of this state to maintain universal telephone service.

All we did was pass a law stating that was the state's policy, we didn't fund it. Now we are talking about funding it.

For those of you who do not wish to fund it, I have two suggestions. One, perhaps we repeal the policy of maintaining universal phone service. If we don't really believe in it, why make it a state policy?

Two, as has been suggested by one of my colleagues, that we should pressure the Congress to repeal the access charge, which could cause problems. I suppose, if we are going to tax the access charge for our funding here. For those of you who are really sincere about that, perhaps we should see a joint memorial floating through this body, memorializing the Congress to roll back that access charge. So, we have three options. We can either do that, which is simply symbolic; we can maintain that we are going to have universal phone service but we are not going to do anything about it, or we can at least make an effort and pass the bill and recede and concur with the other body. I think we ought to recede and concur and let it take its chances.

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 Vose of Eastport that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

40 having voted in the affirmative and 92 in the negative with 19 being absent, the motion did not prevail.

(See Roll Call No. 306)

Subsequently, the House voted to adhere.

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

An Act Relating to Commercial Vehicles (S.P. 914) (L.D. 2282) (C. "A" S-484)

TABLED - April 12, 1986 by Representative THERIAULT of Fort Kent.

PENDING - Passage to be Enacted.

On motion of Representative Theriault of Fort Kent, retabled pending passage to be enacted and later today assigned.

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

Bill "An Act to Create a Paralytic Shellfish Poison Monitoring Program" (H.P. 1307) (L.D. 1823)

- In House, substituted Bill for the Unanimous "Ought Not to Pass" Report of the Committee on Appropriations and Financial Affairs on April 12.

TABLED - April 12, 1986 by Representative CARTER of Winslow.

PENDING - First Reading.

Subsequently, the bill was read once and assigned for second reading later in today's session.

(Off Record Remarks)

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

(At Ease)

The House was called to order by the Speaker.

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

ENACTOR

Bond Issue

LATER TODAY ASSIGNED

An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for Coastal Access, Harbor Improvements, Maine State Ferry Improvements and Marine Laboratory Improvements (S.P. 895) (L.D. 2250) (C. "B" S-490)

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

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

ENACTOR

Bond Issue

LATER TODAY ASSIGNED

An Act to Authorize a General Fund Bond Issue in the Amount of \$12,100,000 for Various Projects at the University of Maine (H.P. 1639) (L.D. 2311) (C. "A" H-697)

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

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

ENACTOR

Bond Issue

LATER TODAY ASSIGNED

An Act to Authorize a General Fund Bond Issue in the Amount of \$3,100,000 for Armory Expansion, Rehabilitation and Construction (S.P. 925) (L.D. 2312) (C. "A" S-488)

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

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

ENACTOR

Bond Issue

LATER TODAY ASSIGNED

An Act to Establish the Maine Business Opportunity and Job Development Program (S.P. 952) (L.D. 2387) (H. "A" H-703)

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

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

ENACTOR

Emergency Measure

LATER TODAY ASSIGNED

An Act to Amend the ATV Laws (H.P. 1583) (L.D. 2229) (H. "A" H-696; C. "A" H-662)

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

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

Representative ARMSTRONG: Mr. Speaker, Men and Women of the House: I have had a couple of phone calls on this and, because of everything else I have been trying to keep up with, I really don't know what these amendments do or what the final law that we are about to enact does. Could someone on the committee give a quick shot summary of what this does before we vote on enactment?

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

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: It is a very thick bill, it does an awful lot of things and I would suggest to the gentleman from Wilton, Mr. Armstrong, table it and go find the bill and read it. It would be a heck of a lot easier for all of us.

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Extend the Commission to Examine the Availability, Quality and Delivery of Services Provided to Children with Special Needs (H.P. 1652) (L.D. 2330) (H. "B" H-692)

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. 113 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Correct Eligibility Requirements for Licensure as a Master Electrician (H.P. 1673) (L.D. 2358) (H. "A" H-716)

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

PASSED TO BE ENACTED

Emergency Measure

An Act Relating to Air Emission Licenses in Nonattainment Areas (H.P. 1693) (L.D. 2384) (S. "A" S-496)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 6 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws (H.P. 1670) (L.D. 2355) (H. "A" H-675; H. "B" H-718)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Making Appropriations from the General

Fund Necessary for the Proper Operation of the Judicial Department for the Fiscal Years Ending June 30, 1986, and June 30, 1987 (S.P. 953) (L.D. 2390)

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

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

Representative STETSON: Mr. Speaker, Men and Women of the House: I would like to pose a question to anybody from the Appropriations Committee that would be good enough to answer.

I would like know to whether this measure takes into account the enactment of a proposed bill having to do with the establishment of full-time appointed probate judges?

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

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

Representative HIGGINS: Mr. Speaker, Men and Women of the House: My understanding is the two bills are related but one is not predicated upon the other so that they both could be passed or one could be killed or not. In either case, the disposition of one is not dependent on the other.

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

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: This bill will not be enough money for the Judiciary for the oncoming year.

The SPEAKER: This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 5 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Implement an Inflation Factor in the School Construction Law (S.P. 955) (L.D. 2395)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

PASSED TO BE ENACTED

An Act Providing for Administrative Changes in Maine Tax Laws (H.P. 1690) (L.D. 2381) (S. "A" S-497)

An Act to Amend the Laws Relating to and

Administered by the Department of Environmental Protection (H.P. 1681) (L.D. 2368)

An Act Concerning Property Tax Assessment and Appeals (H.P. 1678) (L.D. 2364) (H. "A" H-720)

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.

PASSED TO BE ENACTED

An Act to Implement Certain Recommendations of the State Compensation Commission (H.P. 1567) (L.D. 2217) (C. "A" H-699)

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

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Men and Women of the House: I move that we suspend the rules for the purposes of reconsideration.

The SPEAKER: There is objection to the motion.

Representative Higgins of Scarborough moved that the rules be suspended for the purposes of reconsideration and 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 Higgins of Scarborough that the rules be suspended for the purpose of reconsideration. Those in favor will vote yes; those opposed will vote no.

64 having voted in the affirmative and 69 in the negative with 18 being absent, the motion did not prevail.

(See Roll Call No. 307)

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask for a roll call on enactment.

I am a little surprised and I am a little shocked. All session I have voted on numerous occasions or have sat in my seat on numerous occasions when the Speaker has asked is there objection to suspension of the rules.

The SPEAKER: The Chair would advise the Representative that he may talk on the issue -- the matter of suspending the rules is not before the body and not debatable.

Representative BROWN: I will certainly do that; however, I am still shocked.

The SPEAKER: The Chair may find that he may be more shocked than that if he persists with that issue.

Representative BROWN: I most certainly will proceed with the discussion of the issue at hand.

The discussion of the issue at hand is an increase in salary. It is an increase in salary to state officials throughout Maine state government, including but not limited to, legislators' salaries.

I guess that I am shocked and I will continue on this vein and the reason that I am shocked is that we are proposing major increases in salaries, state officials from the Governor right on down. We are proposing major increases in salaries at a time when shoe workers in my area are unemployed. We are proposing major increases in salaries for government officials when union workers all over the state are being asked to take wage concessions -- Keyes Fibre is certainly a good example of that.

We are facing a tax package, which probably will go through this House, probably to the tune of between \$25 and \$30 million dollars of additional taxes. Yes I am shocked that we would propose those kinds of increases given the scenario that I have laid out to you in terms of people in this state being affected.

Obviously, we are now in a position of voting on the whole package whereas I had at least hoped that we might, by our own action, have an opportunity to vote on our own increases or the increases of those who will follow us. That was not permitted. That is shameful. Therefore, I will be voting against enactment of this bill because I guess to lose the whole thing is worth the effort.

I can't think of a single judge who will retire if he doesn't get the increase. I can't think of a single PUC member who will retire because he or she doesn't get the increase. Frankly, with the people running for Governor, I suspect that there won't be a single one of them dropping out of the race if they don't get the increase.

It is a shame that we don't get the opportunity to vote on our own salary increases or those following us. I am in a position now of having to vote against the whole bill which isn't that bad a position to be in anyway. I hope that you go along with me.

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

Representative MURPHY: Mr. Speaker, I wish to pose a question to anyone who may care to respond.

Could we please have the percentage increase for legislators?

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 Kennebunk, Representative Murphy.

Representative Murphy: Mr. Speaker, Men and Women of the House: Since last Fall, many of us have been subject to shrill voices, all Fall and all Winter, talking about changes coming at the federal level, talking about the impact upon Maine, Maine state government. Sometimes we have even heard fleeting references, even though the word hasn't been used, to establishing priorities. Today, you are voting on a 35 percent increase in legislative

salaries. Is this how we here in Maine prepare for the coming changes, -- do we turn around, as the Representative from Livermore Falls said, when Maine people have lost their jobs or they have taken cuts in their salaries, when we see the percentage of what Mainers are earning compared to the rest of New England -- sliding, not increasing -- is this how we are going to prepare for the decisions that have to be made? Give ourselves a 35 percent pay increase as well as a substantial increase in expenses?

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I would pose two questions to the gentleman from Kennebunk, Mr. Murphy, who just spoke.

First of all, I would like to ask him, does this bill before us now embody the recommendation of a bipartisan commission that made these recommendations, not this legislature?

Two, if the bill were to pass, but he were to vote against it and he were in the next session of the legislature, would he accept the salary increase that is in it?

The SPEAKER: Representative Rolde of York has posed a series of questions to the Representative from Kennebunk, Representative Murphy, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the first question would be yes, they had come from a bipartisan commission in which the original recommendation called for no salary increase. That was forced back to the compensation commission where the salary and the expenses were raised dramatically.

The answer to the second question, in terms of the decisions that are going to be made on the federal level and the need for the priorities in terms of changes in Maine state government, possible impacts on Maine people whether I would take the salary increase, the answer is no.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I would like to pose one additional question.

I would like to know if, out of all the members of the 111th that voted against the pay increase at that time, how much money has been turned back to the Secretary of State's Office in refusal of that pay raise from the 112th?

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

72 having voted in the affirmative and 66 in the negative with 13 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(See Roll Call No. 308)

ENACTOR

LATER TODAY ASSIGNED

An Act to Change the Name of the University of

Maine (H.P. 1694) (L.D. 2385)

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

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

PASSED TO BE ENACTED

An Act to Strengthen Professional Regulation (S.P. 956) (L.D. 2396)

An Act Relating to the Passamaquoddy Indian Reservation (H.P. 1210) (L.D. 1717) (S. "B" S-500)

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

ENACTOR

LATER TODAY ASSIGNED

An Act to Implement the Visiting Committee's Report and to Provide the Necessary Funds for the University of Maine and the Proper Operation of Government (H.P. 1641) (L.D. 2315) (H. "F" H-711 and H. "G" H-713 to H. "A" H-700)

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

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: A member of this body has prepared an amendment to the bill and that amendment has not come up yet. I would hope that someone could give me the courtesy of tabling until later in today's session.

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

ENACTOR

LATER TODAY ASSIGNED

An Act Relating to Boards and Commissions (H.P. 1614) (L.D. 2269) (S. "A" S-493 to H. "A" H-657 and S. "A" S-446)

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

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

ENACTOR

LATER TODAY ASSIGNED

An Act Relating to the Administration of Preventable Disease Programs and the Bureau of Health (H.P. 1651) (L.D. 2329) (C. "A" H-701)

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

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

ENACTOR

LATER TODAY ASSIGNED

An Act to Recodify the Laws of the Maine State Retirement System (S.P. 886) (L.D. 2231) (H. "B" H-690)

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

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

FINALLY PASSED

RESOLVE, in Favor of Edgar Warren, of Portland, for Injuries Received While He was a Ward of the State (H.P. 1377) (L.D. 1940) (Com. of Conf. "A" S-487)

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

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

Representative RACINE: Mr. Speaker, Ladies and Gentlemen of the House: If you will look at this bill that we are about to enact, it calls for the awarding of \$20,000 to an individual. I believe, if we pass this bill, that we are establishing ourselves as judges and jurors in determining whether or not an award is necessary or is justified. I believe that we are establishing a bad precedent when we, as a body, act in a capacity of a judge or a jury.

I would strongly recommend that if we pass this that with future similar bills, we would have to act favorably upon and, as I mentioned before, this would be a bad precedent.

Mr. Speaker, I request a roll call and I hope that you will vote against enactment.

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

Representative BAKER: Mr. Speaker, Members of the House: The member from Biddeford has suggested that we would be setting a precedent.

I had a communication from an intern in the Attorney General's Office that had cited a case involving the payment by the state to an individual. The case -- and I have to cite this from memory because my notes are not here. The decision

basically said that, if the legislature finds that, (1) the circumstance was unusual and (2) that the state had a moral obligation to the individual, then such an amount would be awarded. I think that was Nadeau versus somebody or other. I can't be certain because the letter I have is not before me.

What I wish to point out to the good member from Biddeford is that it has already been established that the state may award money based on those two circumstances (1), uniqueness and (2), the state has a moral obligation.

This bill had been worked out in a Committee of Conference. Part of the Committee of Conference Report was that we would award Mr. Warren this money provided that it be clearly stated in the Record that it was not our intention to "open the floodgates to everybody that had a grievance against the state."

In our Statement of Fact, what it basically stated was this, Mr. Warren's legal guardians were the state. If Mr. Warren had legal guardians other than the state, the circumstances would not be unique and it would have been the responsibility of the legal guardian or parent to look after Mr. Warren's health and welfare. This report shows no legislative favoritism towards Mr. Warren to the exclusion of others who are similarly situated. The committee further believes that the state has a moral obligation to compensate Mr. Warren since he was a ward of the state at the time of his injury.

Mr. Speaker and members of this body, the case of Mr. Warren is unique. As I stated before, the state was his legal guardian. He had no other option and thus, when the accident occurred, the state should have looked after his health and welfare and it didn't. That is why the state has a moral obligation to Mr. Warren.

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 final passage of L.D. 1940. Those in favor will vote yes; those opposed will vote no.

72 having voted in the affirmative and 60 in the negative with 19 being absent, the Resolve was finally passed, signed by the Speaker and sent to the Senate.

(See Roll Call No. 309)

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

Non-Concurrent Matter

Bill "An Act Relating to Staff Retention in Community-based Residential Facilities for Persons

with Mental Retardation" (S.P. 757) (L.D. 1921) which was Passed to be Engrossed as amended by Committee Amendment "A" (S-472) as amended by House Amendment "A" (H-705) thereto and House Amendment "A" (H-717) in the House on April 12, 1986.

Came from the Senate Passed to be Engrossed as amended Committee Amendment "A" (S-472) as amended by House Amendment "A" (H-705) thereto in non-concurrence.

The House voted to recede and concur.

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

SECOND READER

LATER TODAY ASSIGNED

Bill "An Act to Create a Paralytic Shellfish Poison Monitoring Program" (H.P. 1307) (L.D. 1823)

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

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

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Create the Family Division of the District Court and to Establish Full-time, Appointed Probate Judges" (H.P. 1504) (L.D. 2119) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Consolidate Family Cases in a Family Court within the District Court and to Establish Full-time, Appointed Probate Judges" (H.P. 1704) (L.D. 2402)

Signed:

Senators: SEWALL of Lincoln
CHALMERS of Knox
CARPENTER of Aroostook

Representatives: COOPER of Windham
PARADIS of Augusta
ALLEN of Washington
PRIEST of Brunswick
KANE of South Portland

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

Signed:

Representatives: CARRIER of Westbrook
LEBOWITZ of Bangor
STETSON of Damariscotta

MacBRIDE of Presque Isle
DRINKWATER of Belfast

Reports were read.

Representative Paradis of Augusta moved that the House accept the Majority "Ought to Pass" Report.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not accept the "Ought to Pass" Report so that we can go on and accept the "Ought Not to Pass" Report.

This bill, which radically changes the Probate Court system, is the result of a family court study conducted last summer. It eliminates our elected part-time county probate judges and replaces them with six full-time District Court judges, each working in one of six regions of the state as has been designated in the bill. It creates a family court system under the District Court.

The concept of putting all family matters under one group is appealing and it may be the future trend. I just don't know that now. The original bill, L.D. 2119, was printed on March 4th, that was just a month ago. We members of the Judiciary Committee hurriedly sent out the bill to some of our constituents, to the attorneys, to probate people, to all whom we thought were interested. At the hearing, one of the judges had many objections to the bill and its practicability. Following the hearing, the sponsor asked him to work with a subcommittee on that bill. I was one of the members of the subcommittee.

The judge appeared at our first meeting with 15 pages of problems with this bill. Those pages were full of comments, you can be sure.

After that meeting, the sponsor took those pages of problems and a few days later came forth with a new draft and a new concept. More problems developed. I don't know if those problems were resolved or not because I did not see that list of problems.

The committee did not see the new draft of the bill until last Wednesday. We had to vote on the bill that night. Few people have seen that bill either. It has not appeared on our desk until -- I don't know if it is on our desk now, I haven't seen the printed copy of that bill. All I have is the draft that I was given in committee. Consequently, it has been impossible to send this new draft out to anyone in our areas. So, most of our people have not seen it, they have heard rumors of it, but they have not seen it.

Last Friday, I had a letter from the Board of Commissioners of Knox County. That letter was written on April 9th, which I believe would have been last Wednesday. This is what they said, "It would seem that there are many questions that remain unanswered. How can increasing fees, raising judges salaries and taking responsibility from the Probate Court system benefit our communities? Over all, the Knox County Board questions why the change in the Probate Court system at the expense of our citizens? The Board stands opposed to L.D. 2119." Even though Rockland is only a few miles away, apparently they have not seen the new draft either.

In this bill, the probate judges we have now, the part-time elected probate judges, would be eliminated. They are paid by the county, anywhere

from \$10,000 to \$20,000 a year with no retirement or benefits. The new District Court judges will be paid up to \$70,000 a year plus all benefits and retirement. To pay for them, fees have been increased anywhere from 25 percent to 250 percent. Perhaps there is no harm in raising some fees a little, but with our judicial budget in the condition that it is, would it perhaps not be better to use any monies for the system and services which we now have rather than making this radical change? It will be a radical change, ladies and gentlemen. You can be sure it will be a radical change for our judges, for our court systems and our people.

When the uniform probate code was being considered, which began in 1973, legislation was passed in 1979 and it went into effect in 1981. Does it not seem irresponsible to put into law a system that was devised only a short time ago?

I do not think we should discard a Probate Court system that has served us well for many, many years unless we are reasonably certain we are going to institute a better system than we have now. Let us not quickly jump into radical change that has so many uncertainties. Why not send the bill out to all interested parties? If the concept is good and if it is a practical one, it can be fine tuned and brought back to another legislature. Let us not put this new system into statute.

I hope you will vote against the pending motion and I ask for a roll call.

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

Representative LEBOWITZ: Mr. Speaker, Ladies and Gentlemen of the House: I concur with the previous speaker. I originally was in favor of the concept of a family court operation but, because of the funding problems of the Judiciary at this time, I have reservations sanctioning another major change. It is for this reason that I voted with the minority.

It is true that there has been rumblings in the past that probate judges or part-time judges and part-time lawyers with the idea that impropriety may result. To my knowledge, there has never been a problem with any probate judge up to this point. So, there appears no need for tinkering with this arrangement.

The bill proposes the use of probate facilities specifically the courtroom space for use of a District Court for family matters. The facilities of the Probate Court are under the jurisdiction of the County Commissioners and are paid for from county funding.

It is true that the bill provides a Probate Court fee as presently set up and will still be paid into the county. The increased fees charged, which range in additional increments from \$10 for filing of wills with an estate value of \$10,000 to \$20,000 to a fee of \$60 for an estate valued at \$50,000 to \$75,000. The previous fee was \$50. This will now go to \$115. The present fee of \$200 for estates valued at \$250,000 to \$500,000 will go to \$500. An estate valued over \$750,000 will now be assessed at one-tenth of one percent of the value of the entire estate. All these fees indicate great additional costs involved in operating a family court.

New personnel will be required, looking only at the need for additional bailiff support for the judges serving on family court matters. Additional clerical support will no doubt also be required for three judges in the first appointment year and three

in the next appointment year.

I cannot speak for all 16 counties as to where the judicial chambers are available for 6 new judges but it would be my guess new arrangements would be required, further adding to operating costs of the Judiciary. Probate judges now serving are part-time but they are available when emergency needs arise. With the change, although the bill indicates probate matters take precedence, it should be apparent that scheduling for family matters necessitates advance planning and if the judge is in another county, he certainly does not have the capability of being immediately available in another county for probate matters, no matter how pressing.

The bill does provide for any District Court judge to act on a temporary guardianship petition. This however, further adds to the burdens of the already over worked District Court Clerk's Office. The personnel in the District Courts are already working at capacity under much pressure from the Judiciary and the public. Do we then need to flush out the Clerks Offices with additional personnel as well?

In addition, the mediation service which is an example of the court having a program which ran into difficulty early in its life because of funding problems, is another thing that must be taken into consideration. This much needed service will now be back on its feet after intervention of legislative directives, right or wrongly. It would appear that this service, which is proving itself, needs more time to be reassimilated with the court system and should not be further impeded by an entirely new and major shakeup of the probate and District Court alignment.

In addition, there is a bill before us to move traffic fines from the District Court to the Office of the Secretary of State with an implementation date of January 1, 1988. The courts will be gearing up for this change in function and I do not believe they should be coping with the infiltration of additional major changes until after this operation is eliminated from their duties.

The bill is well intentioned but its time has not yet come. I urge you to vote against it.

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

Representative PARADIS: Mr. Speaker, Members of the House: I am glad that the signers of the Minority Report grant that this bill, in its proposed recommendation, are of worth and ought to be considered. I would disagree for certain that the allegation was made that we are trying to rush this thing through.

During the last session of this legislature, we established a commission on family matters in the court. I was privileged to be appointed by the Speaker as a member of that commission. We met over the course of the summer, fall and winter on a very difficult task and we reported back to the Judiciary Committee and to the council our recommendations unanimously.

We had hearings, but as every member of the Judiciary Committee can tell this body, we had many other bills to consider. We worked long and hard on every single one of those bills, this one notwithstanding. The fact that it is here today is not because it is being rushed, it is because we have had so many other matters to deal with. No one is trying to rush this proposal through, it is far too

important to try to sweep under the carpet. A full and vigorous debate is appreciated on this.

The hearing was held and it is interesting that it has not been brought up to you that no one opposed this bill. The Chief Judge and the Deputy Chief Judge of the District Court came before us with a series of recommendations. A subcommittee was established and every one of those recommendations was met, every one of them. The bill that you have before you is a consensus bill, it is not anything that has opposition from the court, the judges or from the County Commissioners.

I find it interesting to note that only one commissioner, I dare say, has really become so vocal as to write letters and make phone calls, but I understand that he is a candidate for political office and I would take that in context. We all do things in a political campaign that may not be good for the state but certainly is good for our political campaigns.

If rhetoric is what we want to enact into law, well let's consider it rhetoric, and let's consider legislation that has been worked on by a commission and by a committee.

Now, a family court matter -- I don't think there is anything more important for us to consider in the final days of this session than a bill that would seek to put more emphasis on the problems the families are having when they get into a court situation. This bill would lend coherence and logic to all the family matters that come before the Judiciary. You wouldn't have to start going through the maze -- I am a layman and I can well appreciate that most people out there are laypeople. The maze of going through a District Court and a Superior Court and a Probate Court on matters dealing with family law. This bill incorporates them all into the District Court level. For that, we have the appreciation and the support of the Judiciary in that matter.

You have heard this morning a matter of fees but what you did not hear is that these fees were recommended to us by the Registrars of Probate to lend coherence and to bring outdated and ineffectual fees up to order. Some of them have been reduced, not increased. I would urge you to please take a look at what this will do.

The Carter Commission reported to us a little over a year ago that we eliminate completely the Probate Court system. That is a rather drastic elimination. This bill does not seek to do that. It seeks to appreciate the need for a Probate Court system in our state but it says that, for Maine to move into the 20th Century with the issue of family matters so important and so timely, that we ought to have full-time judges like all the other Judiciary members, the District Courts, the Administrative Court, the Superior Court and the Supreme Judicial Court. Let's get away from this idea that we can still have a vestige of part-time, elected judges when we have so much work for them to do. Let's make sure that our Judiciary is working full-time for us. This does not hurt county government, this increases the potential of good that county government can do.

You know that I am no real proponent of county government but, if there is a way of reforming and of bringing about greater good for our people, then let's adopt it and let's not lower ourselves to our own political abuse and rhetoric and try to impose that every time it comes up. This is a reform, and

as a reform, I can fully support it.

It may be ironic that I am here this morning as a proponent of doing something that would help county government to stay here. I hope you will understand that. I find it kind of ironic but I think that when I look at the sum benefit that this bill would do for our people, for our Judiciary and bringing in needed revenue and streamlining the process, then I have to recognize that and go along with it.

I hope that you will support the Majority Report so that we can lend, not only a helpful ear to family matters, but that we can lend a real solution to helping this process come about. It will not be easy but we have the support of the county people, we have the support of the Judiciary people behind us in our attempt to help expedite matters, family matters, in the court system of Maine.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I rise today because I heard my county mentioned and I wanted to point out to you what I thought about what was said.

First of all, I would like to concur with what the good gentleman from Augusta said about partisan politics. It is interesting that the Knox County budget has been held up for so long because of what the County Commissioners in Knox county have been attempting to do and what the delegation has been attempting to do. This is one more instance where there has been certain disagreement between a certain member of our delegation and that particular group of commissioners.

I ask you to reject any argument based solely on what has been said about Knox County because it can be taken with a grain of salt on this particular matter.

Probate court in Knox County -- net costs to the Knox County taxpayer is \$20,000. I happen to be an individual who feels that courts should not be funded out of municipal property taxes. In fact, in the last session, I sponsored two pieces of legislation that would have removed the two provisions that you see in your county budget for a superior court assessment and also for the fact that superior courts don't pay rent. I sponsored those bills and, unfortunately, they did not pass. I strongly feel that all court matters are a state function and should not be put on the backs of property taxpayers. This bill, as I understand it, will help relieve somewhat the property tax burden in my county and, therefore, I support it.

As far as space being available for Probate Court and the need for possible expansion -- I can't speak for the other sixteen counties but Knox county has probate chambers and I am sure these probate chambers can be made available.

I urge this House to reject any arguments against this piece of legislation. This is a good step for the state of Maine, a positive step, and I urge you to support it and pass it.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: I am in agreement with the gentlelady from Presque Isle, Representative MacBride. In 1981, the new probate code was adopted and one of the reasons the probate code was adopted was to simplify the possibility of someone being able to probate an estate without going through an

extensive cost. It has worked well because there are many small estates -- \$2000 or \$3000 which can be taken care of by the widow or by the children of an elderly person.

What this bill will do, it will take away this provision which has worked very good, which has been able to give the rank and file the opportunity to be able to probate their own estates when it's a small matter.

I agree with the idea that the probate fees will be raised, which I think is something that is long overdue, because the counties taxpayers have been subsidizing these big estates much too long. Let's not forget that the purpose of the new probate code made back in 1981 was to give the little person out there, the rank and file, the right not have to go through big legal costs of having to probate a small estate. Before the probate code went into effect, there were instances where a small estate would be all burned up with the costs of either legal costs or probate fees and many people would have liked to do it themselves.

Over the years, I agree that the legislature has done a wonderful job in easing out the provisions of being able to probate your own estate, but let's not turn around and build another big, expensive bureaucracy. That is what will happen here. I would like to see just how that is going to be implemented. It is fine to look at something that may improve things but I can just imagine in about five years from now that you will have one heck of a big bureaucracy established. I know, I worked for the government of the State of Maine for thirty years and I have seen how a small department can turn into a big department. Small departments do get into big departments in a very short time. I would urge you not to vote for the Majority Report.

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

Representative RIDLEY: Mr. Speaker, Men and Women of the House: I would hope that you would against the Majority Report and give us the chance to accept the Minority Report.

I don't know who some of the previous speakers have been talking to but I have had lengthy discussions with the County Commissioners, people in the District Court and in other legal affairs and they certainly are not for this bill. In fact, one of the district judges (I won't mention his name) did pass the remark that, if they ever pass this bill and appointed him to the family court for three years, he would be a babbling idiot by the time he got out of it. He saw nothing wrong with the system that we have now.

Another point I would like to bring out, there would be considerable loss to some of our counties if this was taken out. Down in York county, \$56,000 are generated in fees from this. It takes up 2800 square feet of office space and they are only in there one day a week. I think we should give this a lot of careful consideration. Maybe there should be some corrective steps taken in this particular office but, as I said before, if you have a sore finger you, don't cut your arm off. I also think this is another approach to peck away at county government to get one more office away from them.

I would hope that you would vote against the pending motion so that we can support the Minority Report.

The SPEAKER: The Chair recognizes the

Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: I think that it is important to know what this bill does and does not do so that some of the concerns which previous speakers have mentioned are taken into account. This bill does not affect the informal probate system which we have now. It will continue on as it has. The fee for filing an informal probate will still be ten dollars, a very modest amount. The probate code is not affected by this bill. That is important to understand.

The Registrars of Probate are not affected by this bill. They will still be elected officials and they will still be able to run their operations. What we are looking at here are full-time probate judges. Those are the only people we are concerned about here. The Registrars will still be able to run their own operation.

County fees, the fees for probate as they are now, will continue to go to the counties. The full-time probate judges will be funded out of the increases in the fees. Counties will still be able to get the fees that they get now from probate. It is important to understand that this bill does not do what it may appear to do on the surface, it really is a full-time probate judge bill over a period of time, and it is a family court bill. That is what it tries to accomplish.

It is important to understand that the idea of full-time probate judges is something which has been around for a while and which has finally come around to fruition.

There has been a concern that there is a conflict of interest for part-time probate judges. This concern was exemplified in the Carter Commission and that is why basically this bill is here before you in addition to the family court study.

The Constitution of Maine, as I am sure you are aware, has a provision that has been in it since 1967 which envisions the legislature creating a full-time system of probate judges. That is precisely what we are doing. This has the support of the Governor who will, if this is enacted, have three probate judges to appoint and the next Governor will have three probate judges to appoint. It is a reasonable, well thought out provision, it has the concurrence of the Judiciary who has worked hard with the sponsor to iron out the technical problems and they are ironed out. It is a good bill, it leaves county government basically alone, except for the question of probate judges themselves. I think it is a useful bill and I think it is a bill whose time has come and I urge you enact it.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Last year or so, I spent a lot of time working on the Ad hoc Committee on child abuse and neglect, representing the Appropriations Committee. My eyes were opened in many, many ways on that committee. We spent an awful lot of time looking at some very sad situations in our state. One of the things that quickly became very apparent in our review was that the victims of child abuse, children did not mesh very well with the adult court. The courts were not designed for kids. Once a child has been victimized and dragged through the process on the way to prosecuting the perpetrator, they must be involved in that case every step of the

way. Prosecutors are pulling the hair from their heads trying to figure out a way to have a three year old witness help put some dastardly person away and that is an incredibly difficult task as you can imagine.

The District Courts and the Superior Courts, who are very, very busy as you all know with many other things, I don't think apply the sensitivity they should to cases of that nature. In my personal opinion, the single most important aspect of this family court bill is servicing those particular kinds of cases, giving those kids a break, kids that have already been through more than human beings ought to be put through. It would give them a break when they get into that court system.

What I would like to leave you with is that the courts were designed for adults and never had children in mind in those early days. This family court proposal addresses that rather specifically and I think is going to improve that situation immensely, not to mention the fact that it will take a workload away from the other courts, which I think we are all convinced is absolutely necessary with the dockets they are facing with many other criminal cases and civil cases. So ladies and gentlemen, this family court, as I think the gentleman from Brunswick, Mr. Priest, outlined will not affect the probate all that drastically. What I think it will do in the long run for the unfortunate victims of child abuse and neglect will be rewarded many, many times over.

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

Representative FOSTER: Mr. Speaker, Men and Women of the House: I really don't know where to begin. The court system -- I don't know what to tell you. We have court judges, we have a retirement system now and we didn't even put any money into that system this year and we talk about putting on six new judges. We don't have space now and the bill says we will have space. A data system -- they will have a data system. It looks very expensive to me.

I look at the fee increases and they show it as a wash or something that is going to make money for us. I don't understand that because the Judiciary themselves have always had the power to increase fees. We don't put a fee on bills that are in Judiciary, they do it themselves. They look at the people who are served by Judiciary. Small claims, up the fees to \$25 they say. Divorce, up it to \$65. \$60 -- mediation, vice versa -- along with having to have lawyers and so forth, make them pay. No one else pays in the court system. We are tied up with cost containment legislation for weeks, they tie the courts up by having to hire trucks -- they can't get all the information to the courts. Does anyone say that we should pay \$10,000 for litigation? No, they don't. But every time the Judiciary comes in, we don't fund them adequately. We say we are going to make them bow down and they are going to do it our way, but oh no, we still send them bills. We still put more of a burden on them. I wouldn't think they would complain if we are going to give them six more judges. It might help them a little bit, I don't know.

Do you think that we, at this time of the year and at this state of the Judiciary, should be embarking on a whole new change? I don't think we can.

I commend the committee, I would have liked to have been on that study. I was on the bill. But I

do not believe that we can do it now because I think we have something more important and that is to get a better hold on the Judiciary ourselves. I didn't know anything about this until I spent two years on the Judiciary Committee. Why do you think I put a bill in trying to move them to Augusta? So we can get a better handle on what they are doing. We see them two or three times a year and it is chaotic. They go back there, we go there. There is no mesh of information and this bothers me.

It also bothers me because when I came to Augusta the one thing in my life I never wanted to hear again was divorce. For two years, here I am dwelling on a subject that I wanted to put far behind me. I was put on a committee to study the problem and we came up with the mediation service. We looked at it at the time and we looked at charging a fee. They already had a mediation service -- it costs us about \$100,000 a year, that the courts did send people too. They opposed mandatory mediation but it turned out they really loved it. They liked it so much that everyone was going to mediation.

I would have assumed if that was the case, that the case loads of the courts would have then diminished somewhat. I am sure they probably have been but the whole thing of that was to make the court system an easier place to work for those that had to use it. I think we were successful.

I wish at this time that we could properly fund the Judiciary. For three months there has been no money for mediation and I am troubled. I asked why there was no money for mediation. We could have had the courts (the judges themselves agree) increase the fees for divorce filings from \$25 to \$50. That would all right, that would have taken care of the problem, but if you were a member of the third branch of government, and the second branch of government takes over the one thing you have the power to do such as setting fees, and comes in with a bill setting fees -- what would you do? You would probably sit back and find out what this legislature (this second branch) is telling the third.

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

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

Representative CARRIER: Mr. Speaker, Members of the House: I support the motion from the Representative from Ellsworth. I was on the "Ought Not to Pass" Report and I would like to give you, if I can, a few reasons why you should pay attention to this bill.

All of us want the best that we can get out of the court system. I think there are very few people in this state that think they do get the best services for our money. I think it is about time that we look at the world of reality, not what the ideal would be, but the world of reality -- more efficiency at a minimum cost to the taxpayer.

My comments are mostly on costs. I could really make much easier on myself and mention to you we should strive for better quality of judges and then it might be easier for me to decide again on the nominations that we have had against this bill. That's not the reason why I am against this bill. One of the reasons that I am against this bill is I was not very excited over the mediation process but I have seen where it has worked well. It bothers me that it has apparently worked well but they are not

properly funded. We find ourselves in a position where we have to give them more money for mediation, which I think is right.

On the other hand, they turn around and suggest that we also raise the mediation fees and also the Small Claims Court things in order to raise more money for the Judiciary. I think it has come to a point where a person who works for \$3.50 an hour (minimum wage or thereabouts) cannot afford (even as a matter of necessity) to get a divorce to protect themselves and their own families. As a result, I think that things let go because people cannot afford it. We used to go to Small Claims Court for five dollars -- what is it now or what is it going to be? You can find out, it's right in here.

I want to talk to you about the budget or some things that I received from the court administrator, who is very restricted or else they just don't want you to know this stuff. If this program goes into effect, the cost to the taxpayer will be, within five years time, (and this is projected over a five year period or six years but we will only have a half of a year this year) over \$2 million -- just to put it into effect, just to put it into effect.

Here we have 1987-1988, up to 1992. We start with \$350,000 and in 1992, this projected system, the fiscal note will be \$1,311,915. Now that is an increase of what is it -- 150 percent? I don't know, but figure it out yourself -- three times 350. That is a part of the overall costs. Now you say, we are going to get income on that. Let's be realistic. We are realistic to know that never, never does the system pay for itself, not in the Judicial Department, it never pays for itself. What do we do here, we put the six additional judges, and do you really know what a judge's pay will be in 1992? It will be up to \$83,000 (we had a discussion on the compensation bill we had this morning) but the fringe benefits of a judge pay amounts to 70 percent a year. So if you pay him \$83,000 five years from now, the cost for each judge will be \$142,000 to this legislature -- to the people of Maine. They get a 70 percent fringe benefit. Okay, how much fringe benefit do the workers within the department get? Well, they go from \$30,000, ahead six years, to \$78,000, now what is this? You know 50 percent compared to the judges, they would get 100 and some odd percent -- 105 I think it adds up to.

The cost goes into millions of dollars. I don't care what they come out with for projected income from it, you never, never will come close to this. I personally don't feel that we can afford this.

I want to see the probate judges elected and I will tell you why. The probate judges that I have talked to don't want this stuff. The family courts don't want it. The Maine Bar Association doesn't want this stuff but they haven't got the guts or the time to come out here and say that they don't. You talk to the leaders of that thing, you will find whether they want this thing or not. Who cares if they do or not -- talk to the individuals that belong to the Maine Bar Association, they are not all pleased or excited about their presence either.

I don't think we need this at all. For one thing, certain probate judges probably gets paid -- you can't gauge the amount of work that they do because of the pay but you can gauge it by the amount of the small communities or counties, and some of them gets \$10,000 and others get \$20,000. For one thing, down in Cumberland County, those of us who

live there, I would say that probably the probate judge might spend 60 to 70 percent of his time on probate matters. For Cumberland county (but this is not a Cumberland county bill) how much more time will he have if he is appointed as a district judge, as a probate judge -- very little. If you want to put all this stuff into a family court, you might need two judges in Cumberland County, not three over the state as they got it stated.

It's all a matter of money and I think that we should concentrate on working on what we have and I think our first priority is this mediation court in order to give the people a chance to get their business going. I would have never increased the fees there but I suppose it is a matter of necessity. The increase of the fees is not bad if the people that cannot afford it or can only afford half of it, somehow or other are not left out of the court altogether, but in some cases, some will. Some have a lot of dignity and they just won't take the help or whatever is available to them.

We should give the Judiciary some support but I think that the main thing is that you have to start with good appointments and then go from there -- have somebody to supervise, there is something very wrong and has been for many years in the way the Judiciary works. You try to get information and it's really a battle. You can see the turmoil, the employees are not satisfied, everybody hollers about it because of the long wait of the cases.

I don't think that the solution is more judges. I really don't. I think a system of efficiency needs to be set up. Maybe if the Judiciary itself, the top Judiciary itself, would listen a little bit to the one's that work within the system that they might find out that there are some good ideas that would resolve the cases much faster and give the judges more time on the more difficult cases. I don't think that we need any other court.

There are all kinds of hidden facts -- if the Probate Court judge's pay were a certain percentage of the District Court judge -- you know everybody comes here and says we will give the District Court judge a raise. In the meantime, you are on the other end and are also giving, (it's written right in there) the other guy a raise too. I mean, is this what we want? Cost would not be a thing at all if we got the efficiency but we don't.

I hope that you do support the indefinite postponement. I don't think this is a good bill and I don't think it should come back again.

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

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

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

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: May I pose a question through the Chair to anyone on the committee or the

sponsor?

In Washington County, and I am sure in any other county, we are having a lot of difficulty with county taxes and because of the loss of revenues sharing, we are going up and up and up. If we pass this bill, would this bill help us as far as taxes are concerned in my county?

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

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: The answer to the question, with regards to property taxes, would be yes.

I would like to come at this issue of the family court from a slightly different angle than has been approached this morning.

First of all, I would like to remind the House that the establishment of the family court within District Court would take in all family cases including divorce, questions of juveniles, child custody, child support, child abuse, judicial separation and paternity.

Now, in a perfect world there would be no need for a family court. In a perfect world, there would be no divorce, juvenile crimes, child custody questions and support etc. Unfortunately, we don't live in a perfect world. I had the misfortune of observing a District Court session just this year and was a bit appalled at what I saw. I attended a District Court session to observe some of the kinds of basic cases that flowed through the District Court, including but not limited to, traffic offenses, burning without a permit, all sorts of trivial, mundane issues that judges in the District Court see daily. I was there on time, as were the other offenders, in court that morning, but unfortunately for the woman who was trying to get a divorce, the judge was slightly behind in schedule and the people assembled within the court that morning had the opportunity (and I might say it was an embarrassing and unpleasant opportunity) to observe this woman trying to get a divorce. She was without legal counsel because she had chosen to do it that way and I frankly felt embarrassed for, not only her, but the judge that had to ask her some very personal questions in front of the group assembled. I felt immediately, at that point in time, that something had to be changed, something had to make our court system more sensitive to the needs of the human beings that have to go through it.

Nobody wants to go through a divorce. Certainly when we marry, we hope that our marriage will last forever. No one wants to be involved in issues regarding child support or child custody. Unfortunately, those are the realities of life, we have to deal with them. I was firmly convinced that morning that we must deal with those, not only in an efficient manner, but in a manner that showed we had an open heart.

Men and women of the House, I ask you this morning to open, not only your hearts, but your mind to a very progressive piece of legislation that helps to meet the needs of those people who find themselves in a court situation who don't want to be there but have to be.

I urge you to vote against indefinite postponement.

The SPEAKER PRO TEM: The Chair recognizes the

Representative from Damariscotta, Representative Stetson.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I have many points to cover but let's start with Representative Allen's points. She said that she attended a District Court proceeding the other day. Well, I have been in the District Court a few more times. Yes, it is true that the District Court gets all of the trivia within the court process but I can assure you, my colleagues, that the family court judge under this bill will be getting all of the trivia because the family court judge will be sitting as a District Court judge on all matters assigned to the District Court.

Will that family court judge be getting the more important District Court cases or will he be getting the trivia? He will be getting the dirt.

True, the family court judge will be assigned primarily to family court matters but he will also be responsible for the burning without a permit for the traffic violations, for the drunks, and for all the other matters that go before the District Court.

Representative Allen is sadly misguided if she thinks that this is going to avoid the blending, if you will, of family matters with the more mundane and trivial matters coming before a district judge.

I would like to turn to what the good Representative from Augusta talked about, that this does not hurt county government and that Registrars are not affected. Under our constitution today, under our Maine Constitution, Article 6 provides that probate judges and Registrars are elected by the people.

It is true, as Representative Priest from Brunswick pointed out, that back in 1967, the legislature put out to the people this idea of creating full-time probate judges. In doing so, the provision was made that Article 6 can be repealed at any time that the legislature decides to make all of our judges full-time probate judges. What the Legislature may not have considered at that time is that, in doing that, you would also be wiping out the constitutional officers of Registrars of Probate. I think that that was an oversight at that time because what they were concentrating on then was the idea that some day we ought to have full-time probate judges. They weren't talking about Registrars really when they considered that question. Unfortunately, that is what happens if you pass this legislation. You will be transforming our Registrars from constitutional officers into creatures of the legislature, creatures who can be wiped out, can be governed, can be manipulated by the will of a legislature, maybe not this one but the next one or the one thereafter. So, I say to you, you are definitely affecting county government. You are definitely affecting the whole concept of the Registrarr of Probate.

Let's go back to the enactment of the Probate Code. I was on the Judiciary Committee at the time that code was considered and at the time it was enacted back in the 109th Legislature. I do not share with Representative Priest the sweeping statement that this bill will not have any effect on the code. I submit to you it will have a drastic effect.

The assignment of probate cases will be up to the Chief Judge of the District Court. I submit to you that probate will take second rank when it comes to

the assignment of judges to family matters and to probate matters. It will have an effect on the administration of the Probate Code. I again reiterate that we should not start tampering with that process which was only enacted and only put into effect just a few years ago.

You may have heard me get up earlier in the morning and ask a question of the Appropriations Committee whether the judiciary bill that was being enacted as an emergency measure had taken into consideration the creation of the full-time judges. I believe the Representative from Ellsworth answered that question correctly but she said that this particular item had not been considered by the Appropriations Committee as having an effect on the cost of operating our judicial system.

The fact is that this family court idea will cost the Judiciary system considerable and added dollars. I don't know where these figures came from that are in this bill but I can assure you that they are suspect because they have been changed three times in the last week. The figures in the bill, incidentally, are estimates based on filings — I don't know whether they are filings from 1984 or 1983 or just where they come from — but the revenue estimated in the bill is not based on 1986 filings or on 1987 filings. That is what we are concerned with here.

Let's talk about the Probate Court as it presently exists. Whether you know it or not, it has always been regarded as the people's court because it is the one court that the people have control over. Incidentally, our County Commissioners have control over the salaries of the judges in the Probate Court. I think that is an important consideration when we talk about destroying county government or preserving it as we have known it down through the years.

Now you are going to take the probate judges right out from under the County Commissioners and you are going to put them here at the mercy of the Legislature. But more importantly, what about the availability of these judges? Look through this bill and you will see that there will be six regions appointed throughout the state. These regions will encompass several counties within each region. I dare say that in Region 1, I believe that is the one that Cumberland County is included in, that that particular region might well expect to have a family judge sitting in Portland six days a week. But what about the other counties in Region 1? Are they going to be without the services of a probate judge? Are they going to be without the services of a family judge? That judge is going to be busy in Portland, I can tell you, six days a week if he is handling all these divorce actions for Cumberland County.

I was talking to a probate judge from Greenville the other day. He related to me an instance where the sheriff came to his door and said, "Judge, I have here a woman who ought to be committed and I need your signature on the order of commitment. She tried to commit suicide." He was the only judge in that county available to sign that commitment order so that woman could receive the protection and treatment that she obviously needed. I submit to you that this bill will destroy that. The same thing applies to protective orders for children. If you do not have a county judge available within your county, I can assure you that in some cases he will not be available. Then the children that Representative

Nadeau referred to will go begging for protection as well.

When we talk about family matters, I submit to you, we had better not abolish the people's court. It is true that the idea of part-time probate judges suggests, and I have used that word advisedly, only suggests the possibility of a conflict of interest. As has already been pointed out and it hasn't been refuted, this conflict just doesn't seem to arise, it just doesn't seem to be there in reality.

In the first place, most probate matters are uncontested. Most probate matters are handled by our elected Registrars of Probate under our county government system and I don't think we should fool with that. We should let the process work as it is. If you choose this hastily drawn measure, this patchwork attempt, to meet the very real objections of the Deputy Chief Judge of the District Court, then you will be destroying one of the most basic principles of our judicial process, the principle of availability of a judge to handle the emergency matters that come before him, day or night.

I submit to you that there are many other objections to this particular piece of legislation. I realize that the hour is growing late. It is late in this session to explore all the possibilities but I can assure you that this is a matter that is being pushed upon us before it has been carefully considered.

I, for one, cannot support a measure that will automatically deprive Lincoln County of a probate Judgeship for at least two years and in effect for five years at least. Now, where do you get that from? Under this measure, our presently sitting probate judge, who resides in Waldoboro, is not affected for the balance of his term, which is another two years. At the end of that two year period, Lincoln County will be covered under one of the other counties and there will be a family court judge already sitting from that other county. So, he will have another five years to go on his first appointment and presumably seven years thereafter. That effectively squeezes out any judge sitting in Lincoln County, bearing in mind that these regional judges must reside within their region. You can fully expect that the regional judge will be at the urban center of his region. Therefore, you will see that Lewiston has a family court judge, Portland has a family court judge, Brunswick might have a family court judge but the smaller communities will not have the advantage of a family court judge except when the Chief Judge of the District Court decides to send him there.

Let's keep the people's court, let's not abolish it. Let's think this thing through thoroughly before we make an egregious mistake.

I urge you to vote for the motion to indefinitely postpone this legislation.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: An earlier speaker said he saw this bill as a matter of money. I happen to see this bill as a matter of people. I ask you, what counts more? I find it very difficult to believe that anyone can really be opposed to a family court. We have learned from the fields of psychiatry, psychology, mental health and corrections of the primary importance of the family unit. We have also heard the lamenting over the demise and the

disorganization of the family in recent years. A family court will put the correction, punishment and rehabilitation of offenders back within the context of the family as a basic unit of society.

Let us put the message out that the Maine Legislature realizes the importance of treating the family in a special way by supporting the Majority Report of a very good piece of legislation. I would ask you to vote against the indefinite postponement.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: When the debate started on this issue, I had no intention of getting up to speak. Representative Melendy, I think, has hit the nail right on the head. I don't believe that this bill should be judged based on money. Throughout the debate this morning, we have heard many references about the courts being underfunded, the courts system not being as efficient as it should be. I think it goes much deeper than that.

One of the problems that we, as members of the Appropriations Committee, have run into revolves around "separation of powers." We have three equal branches. The Legislative Branch is the branch responsible for enacting laws and raising revenues. They are, except for the Governor, the only elected representatives of the people. We, as legislators, are held accountable for every dollar that is spent in this state. When a dollar comes from a taxpayer, there is no such thing that says 33 cents for the Executive Branch, 33 cents for the Legislative Branch or 33 cents for the Legislature.

If you take the issue of separation of powers and you argue to the ninth degree, it is completely possible for the Legislative Branch to have a bureaucracy just as great as the Executive Branch has to administer state government.

We, as legislators, have chosen to take advantage of the existing executive facilities to provide us with the services that we desire. We have asked in turn that the Judicial Branch do likewise, but there is some disagreement again over the term "separation of powers."

Let me give you an example of what took place last year. Statements were heard everywhere that the judicial system was cut drastically. The judicial system was not cut. We gave them a 19 percent increase in their budget. What was cut was the requested increase of a half a million dollars. The committee did this to put their feet to the fire to get the cooperation that we were looking for from the Judicial Branch.

In the bill that we passed earlier this morning, some of those monies were restored.

It has been stated by some that the mediation problem that arose in the interim was like a school board reacting to a town council's cut of their budget. They would hold a very popular program like football or basketball and, in this case, it was mediation. I don't believe that is the case but anyway we keep hearing these rumors.

Incidentally, the budget that we passed this morning to pick up some of the short fall that the courts will experience -- and it is true as Representative Foster from Ellsworth has indicated -- there are insufficient funds for the second year of the biennium; however, we will be back in January. In the meantime, the Appropriations Committee is going to continue examining the operations of the

Judicial Branch in trying to increase their efficiency and maximize or get the best bang out of our buck.

The bill that is before us should not be judged on money, as Representative Melendy pointed out, and she is quite right. I have to tell you in all candor that we have not seen the final bill but the information that we got from staff that we worked with last night indicated that the cost for the operation of this particular document would be \$291,907 per year and the revenues that would be generated from this same bill would be \$630,116. The reason that we, as an Appropriations Committee, did not act on it was because it is revenue neutral or produces revenue, it is not a cost to the General Fund.

The bill that you have before should stand on its own merit. We all know that one of the prime duties that we, as legislators, are expected to perform is to provide the most efficient system that we can and as economically as we can. If this document meets that test and I think it does, then we should support it. I would urge you to support it.

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

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: \$500,000 was cut and the word was "put their feet to the fire." What was the answer? No money? The "feet to the fire" has been three months of no court mediation, three months. I don't like that.

The bill that we passed this morning funding the judicial budget -- do you know where the funds are going to come from? L.D. 2332 -- to put a fee on mediation bringing in \$32,084 in the first year, \$192,500 the next. Also mediation in Small Claims Court.

Ladies and gentlemen of the House, when you try to make something in the court revenue neutral to the poorest of the poor that is not my way to fund a Judicial budget.

I hope you bear with me through this long, long day.

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

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

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: It isn't very often we have a chance to get up and praise the Judiciary, the judges, the men and women of this state, and the work that they do. Some of the debate today disturbed me. I am not quite sure just how I really want to vote on this issue but I take exception to some of the talk that the judges in this state don't do their work and they are not efficient. I think I probably represent more judges than any member of this House. I have talked to a lot of these judges, the Supreme Court, the Superior Court, the District Court judges and they tell me the work load, not only of my own community in Cumberland County, but in the other communities that they serve because a lot of them do travel.

I would hope that this bill is weighed on its merits and not on the fact that some people think judges don't work hard.

I have been given the opportunity and I haven't taken it up yet but I have been given the opportunity to go down to the Cumberland County Court House and watch the judges go through the different trials that they have. I would like to do that this summer when I have the opportunity.

All you have to do is look around and see the complexity of the trials that are going on now to know that these judges work hard and they put a lot into their jobs. I would hope that this particular measure isn't reflection on the inefficiency of the judges of this state because I don't think that is the issue.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: There are a few points that I feel have not been made about the merits of this bill and since previous speakers have said that this bill should be judged on its merits, I feel it is important that they should be outlined before we proceed to vote.

I know you are all aware of the complex set of factors and issues that are involved in child and family cases. Not only, as Representative Nadeau from Lewiston said earlier, is it important to provide an environment where children's needs can be addressed but it is equally important to have judges who understand and want to deal with family matters. I stress, want to deal with these matters.

As a social service person, who for many years, has been involved in child abuse, child protective cases and other family cases, there have been times when I have had to admit that the judges, some of them, have not really wanted to be involved in these family matters.

We need to have judges who will give the time to studying these matters, to remain up to date on research and findings in relation to child abuse, child protection and new research is coming out all the time, new methods are being developed. We need to have judges who recognize also the importance of a team approach to working with these cases; the psychologists, social workers, teachers, law enforcement and the legal profession must work together to protect children and to make the most appropriate decision.

Earlier this year, I had the privilege of moderating a session at the National Conference of the State Legislatures session on Children and Poverty. The major speaker in that session was a judge from Mississippi. She was a judge in what would be their division of family court and she dealt only with youth cases. I came away from that session with a tremendous amount of admiration for her and for the system which permitted her to work with an entire team and to follow the children and youths who came before her over a period of time. This is not the case in Maine right now.

This morning I reviewed the document which we all have before us, which is the report that led to this piece of legislation that we are now considering. There is one very important point that I would like to reiterate from that report and that is, despite all of the changes that have taken place and significant steps that have been taken to reduce the adversary posture of family cases in Maine, I am

quoting from the report, "that the adversary approach still predominates in family cases because we are accustomed to a system using that approach for the resolution of legal conflict."

We have a system of mediation, we would like to extend that system, we would like to have family cases dealt with in an environment that has the least adversary approach as possible.

I believe that the legislation we have before us will help us to accomplish that.

First of all, it specifically states that in the assignment of District Court and Probate Court judges to family cases that the Chief Judge of the District Court shall seek to assign judges to hear family cases who have an interest or demonstrated ability in handling family cases.

Secondly, the District Court shall seek to use facilities providing the most privacy possible for the hearing of family cases. It also provides for continuing education so the judges assigned to hear family cases and other interested judges, who may want those assignments in the future, will have an opportunity to receive continuing education, to receive it with attorneys, social service providers, mediators, physicians and others who are involved with family cases. It also provides for an advisory committee on family cases.

I feel that this is a very important piece of legislation. It is one that will protect our children and our families from the adversary approach that takes place in many of our courtrooms and will allow their cases to be heard in an environment in which the rights of children, the emotions of children and of their parents, will be much better protected than they are today.

I would ask you to vote against indefinite postponement.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I do feel that our probate judges now are very sensitive to the needs of the people.

Furthermore, as has been pointed out to you, they are available and accessible. We all have a judge in each of our counties.

Under this new system, Aroostook County will be sharing a judge with Penobscot County. You wonder with the distance involved there, how that is going to work.

Region 4 will consist of Waldo County, Knox County, Hancock County and Washington County. With those distances, how do you think that will work?

Franklin County, Somerset County and Piscataquis County are all going to be with one judge.

York County and Oxford County will have one judge and I think you have heard of the other counties. I do not feel the people of the State of Maine are going to be as well served or the judges will be as sensitive to their needs as under the system that we do have. I hope you will indefinitely postpone this bill.

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

Representative CARRIER: Mr. Speaker and Members of the House: I just want to make a few points after listening to a few very interesting things being said here today. Generally, I think all of us really have what is best for people that use the court system,

whether they are children or divorced or any other thing.

The thing I think we are looking for is efficiency. This is not being critical of the judges. If I wanted to criticize the judges, I know who to criticize and I know who does the work down our way. We have to do something. To me, this is not the approach we should take. We already have problems with the courts, more so now because we have got this mediation thing, which is probably a good program for some people but why would we want to get involved into more expense, with probably less efficiency. We need better appointments than we have been getting.

We also have to realize a fact of life that if you can't afford something, you don't buy it. It was stated a few minutes ago that the cost of this court, which is quite different from the cost that I got from the court administrator, the cost is \$291,000 a year. This is what was said on the floor. It would generate \$630,000. The cost of the court for the first year is not \$291,000, according to the report that I have, it is \$350,000, so that little difference of \$60,000 doesn't mean too much but let's look at the second year. When they say that this will generate \$630,000, we are already going in the hole in the second year because the cost of the court then will be \$696,000. Are we going to get more cases every year and generate more money? I don't believe so, because with an extra three judges or six judges taking over the other peoples work, they are not going to accomplish that much more, they might do it more swiftly and probably better, but they are not going to accomplish more. So, let's go to 1992, five or six years from now, when it will cost you \$1,311,000 and, if we still generate \$630,000, no matter which way you look at it, you are heading down hill. You are changing the system.

The Chief Justice of the Supreme Court will appoint the advisory committee. Now, how often have you seen that in the past laws. We are taking the power away from the Governor or others that should do this work and we are giving it to the Judiciary. What if you have a Chief Justice that is very sick for six months, can't do his work, who is going to do the appointments? Foolish question, but where is the answer? There is nothing in this bill that says who is going to do his duties if he is not there. I don't think this is a good bill at all and I hope you vote for indefinite postponement.

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

Representative COOPER: Mr. Speaker, Ladies and Gentlemen of the House: Twice we have heard about the efficiency in the court system and that is what is needed. I just wanted you to know that, in Portland, the testimony that we received indicates that we have reached efficiency.

In the Portland District Court, there is a standing rule that no contested domestic matter may exceed 30 minutes. It is not difficult to imagine the problems created by such a limit. And because the dockets are so crowded with other matters, it frequently takes a great deal of time to bring any domestic matter to court. This, of course, adds a great deal of pressure and adds a great deal of anxiety in the minds of the litigants. Often the delay itself actually fosters many of the problems presently encountered in the domestic relations cases.

Placing a family matter in a court designed to

handle these cases staffed by well trained and experienced judges and staff will do a great deal to alleviate the problem. I hope you will support passage of this bill and vote against the motion to indefinitely postpone.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Foster of Ellsworth that L.D. 2402 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

93 having voted in the affirmative and 45 in the negative with 13 being absent, the motion did prevail. Sent up for concurrence.

(See Roll Call No. 310)

At this point, the Speaker resumed the Chair.

The House was called to order by the Speaker.

The following item appearing on Supplement No. 26 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Communication:

The Senate of Maine
Augusta

April 14, 1986

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

Dear Clerk Pert:

Please be advised that on April 11, 1986 the Senate joined in a Committee of Conference on the disagreeing action between the two branches of the Legislature on Resolution, Proposing an Amendment to the Constitution of Maine to Establish a Legislative Veto over Agency Rules (H.P. 1579) (L.D. 2228).

Sincerely,

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

Was read and ordered placed on file.

Reference is made to (H.P. 1579) (L.D. 2228) RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Legislative Veto over Agency Rules

In reference to the action of the House on April

11, whereby it Insisted and Asked for a Committee of Conference, the Chair appoints the following members on the part of the House as Conferees:

Representative GWADOSKY of Fairfield
Representative CARTER of Winslow
Representative SPROUL of Augusta

(Off Record Remarks)

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

(At Ease)

The House was called to order by the Speaker.

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

PASSED TO BE ENGROSSED

AS AMENDED

Bill "An Act to Create a Paralytic Shellfish Poison Monitoring Program" (H.P. 1307) (L.D. 1823)

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

Representative Carter of Winslow offered House Amendment "A" (H-725) and moved for its adoption.

House Amendment "A" (H-725) was read by the Clerk.

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

Representative CARTER: Mr. Speaker, Men and Women of the House: Briefly, this is a revenue neutral bill dealing with an industry in Washington County, namely the harvesting of mahogany quohogs and it incorporates a self-imposed tax on the people who will do the harvesting to a monitoring program to deal with the paralytic shellfish poisoning. I would hope that you would support this document.

Subsequently, House Amendment "A" was adopted.

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

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 27 was taken up out of order by unanimous consent:

PASSED TO BE ENGROSSEDOught to Pass in New Draft

Report of the Committee on Human Resources on Bill "An Act to Protect the Public Health and Safety of Residents in Boarding Care Facilities" (S.P. 875) (L.D. 2207) reporting "Ought to Pass" in New Draft (S.P. 959) (L.D. 2401)

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

The Report was read and accepted.

Under suspension of the rules, the bill was read twice and passed to be engrossed in concurrence.

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

PAPER FROM THE SENATEDivided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Clarify Public Rights to Use the Intertidal Zone" (S.P. 758) (L.D. 1922) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Confirm and Recognize Public Trust Rights in Intertidal Land" (S.P. 950) (L.D. 2380)

Signed:

Senators: CARPENTER of Aroostook
CHALMERS of Knox

Representatives: KANE of South Portland
COOPER of Windham
PRIEST of Brunswick
ALLEN of Washington
PARADIS of Augusta
CARRIER of Westbrook

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

Signed:

Senator: SEWALL of Lincoln

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

Came from the Senate with the Majority "Ought to Pass" in New Draft report read and accepted and the New Draft passed to be engrossed.

Reports were read.

The SPEAKER: The Chair recognizes the Representative from So. Portland, Representative Kane.
Representative KANE: Mr. Speaker, Men and Women of the House: I move acceptance of the Majority

"Ought to Pass" Report.

I would like to discuss with you for a moment what this bill does and especially what it does not do. This bill does not create new rights, rather it confirms the existence of rights which are so well known and so widely accepted that they are and have been presumed to exist. It confirms the rights of the public, public trust rights, to use the land between the ordinary high water mark and the ordinary low water mark. The logical question then is, why is this legislation needed? The reason is the people are looking to us for confirmation of this. People are looking for guidance on this issue and we are the appropriate governmental body to clarify and to confirm and to recognize that these rights have existed and that they do exist.

As we all know, the pressures on the coast for various uses are increasing dramatically and recent litigation has shown that there are those who are unfamiliar with the Maine heritage with regard to these intertidal lands and who, along with the courts of Maine to whom those people have gone, need legislative confirmation of what the Maine tradition has been and what it continues to be.

At least one member of a rather prominent Maine court, according to newspaper accounts, has wondered aloud why the legislature has not spoken on this issue.

Let me emphasize -- we are not creating new rights today with this legislation. We are formally recognizing and confirming that these rights have existed and that they continue to exist. Let me note that there is ample pressure that for passing laws, whether of statutory or constitutional dimension, which don't create rights but which only confirm or recognize that particular rights do exist.

For example, some of Maine's criminal code sections are in recognition of particular rights or protections which people in Maine have. The repeal of those sections would not vitiate those rights, would have no effect on their applicability in a given case against a given individual. They are simply there on the books in recognition, in official recognition and confirmation of those rights, by the legislature.

It certainly could not be said that the right of free speech or the right of freedom of religion did not exist until 1789 -- those rights unquestionably existed in America before that day in 1789 when one state completed ratification of the U.S. Constitution. The Constitution confirmed and recognized those rights from that time to this. So it is with the bill before you. These are historically and traditionally rights which have been recognized in Maine. All this L.D. does is confirm that we recognize that.

The SPEAKER: The Chair recognizes the Representative from Stonington, Representative Rice.

Representative RICE: Mr. Speaker, Men and Women of the House: This is a difficult bill to get up and speak against when you live within fifty feet of the ocean as I do.

I attended the public hearing on this bill and the main reason that I am speaking today in opposition to it was a statement that was made from an Attorney General requesting that the legislature not act upon this bill this year and let the case continue through the court system.

I might remind you that our forefathers did protect fishing and fowling rights. I do not believe

that they clearly spelled out recreational uses. Maybe I can define for you what fishing and fowling would be in front of my house. It would be clamdiggers digging clams, fine. It would be marine worm diggers digging worms as they do right now, fine, but the recreation part is of concern to me.

If you live on the coast of Maine, you pay some of the highest property taxes in this state for the privilege perhaps of looking at the greatest asset that I think we have, the ocean. I have lived in my house 17 years on the island of Moose Island where the water touches the entire island. My family has lived on that island during the summer, since 1935.

My concern today is that we are going to establish a precedent before the court case has had the opportunity to go through the system, that we are going to say that that area in the intertidal zone is now all public.

I could tell you what the intertidal zone is. The coast of Maine is made up of a long coastline but the areas of the coast that have actual beaches, I think you will find, are limited. As you move farther up the coast, we do not have the long beaches that they have in the southern part of the state. We have lots of ledges, lots of granite, we have small, very tiny, beach areas.

I understand the intent of this bill and, as I said at the public hearing, I wholeheartedly support those in my own party and those in the opposition who are trying to have the beaches in Wells and Ogunquit and other areas remain open to the public as they should — absolutely, positively. But my concern is those of us who happen to own two acres farther up the coast are going to see people in the intertidal zone which is the area between high water and low water marks using our small areas for recreation. Recreation isn't defined in this bill. Is that ghetto blasters, is that parties — I am not sure what it is.

I have a concern with this bill and I would hope that the legislature would not vote in support of it.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: Cumberland is a coastal town. I, unfortunately, do not own any property on the ocean. We all recognize the fact, as the lady said, that we have all duck hunted and fished and we have dug clams on the coast. Can you imagine some of my constituents, if we have fraternity parties on the beach, bonfires, anybody is welcome — the city of Portland can move into Cumberland on the beach at any time below the high water mark? I don't think it's fair and I don't think it's right and I hope you will vote against this bill.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: At this stage on this bill, basically, I am in support of the philosophy. However, I have some difficult problems with the wording. The primary one being the term "ordinary high water." Perhaps it is indicative of the fact that most of the people on the committee that dealt with the bill aren't seamen, they are landmen, lawyers and whatever and aren't aware of the fact that ordinary high water in the State of Maine varies every day of the year and every phase of the moon.

The vertical difference of ordinary high water from the far western sections of this state around Kittery until you get up into the far eastern sections up in around the sections of Passamaquoddy Bay maybe as little as four or as much as twenty feet vertical difference. I have been shown the court decision that came up with the term "ordinary high water." What it says in effect is that ordinary high water isn't high course tide. That still leaves roughly a four to twenty foot vertical tide variation. Depending on the slope of the shore wherever that tide hits, that can mean as much as from zero to a couple of hundred yards difference in the size in the intertidal zone.

The United States Coast Guard, Admiralty Law, the United States Geological Service, all use the term "mean high water."

There are other problems in this bill dealing with liabilities that I haven't resolved but I don't know enough at this time to comment on those. What I will say is that, with this bill modified so it says "mean high water" rather than "ordinary high tide," it would make it much clearer, it would in all likelihood prevent a court case down the road to define ordinary high water as mean high water.

As the bill sits right now, rather than kill it, I agree with the principle of the bill. I do see some difficulties with it. I am willing to vote in favor of the "Ought to Pass" to give the sponsors of this bill the chance to come up with an amendment to modify it to make the bill palatable to everyone on the coast. If that can be done, I will stand in wholehearted support of this bill. If it cannot be done, regrettably, I feel I would have to oppose it. I would hope that we would accept — at least at this stage, the "Ought to Pass", give the sponsors the capability to modify it into an acceptable version.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: I would ask you to vote "Ought to Pass" on this bill. Speaking for the beaches in my area, they have been open since 1642 without interruption as public beaches. At one time, it was part of the public highway at that area. As far as what goes on on your beaches, your town ordinance would rule what was allowed on and what was not allowed on the beach.

Another point — if this bill is not accepted at the present time, referring to the legal case in court now, it would give the district attorney something to act on in order to protect the seacoast of the State of Maine — it would go a long way toward killing the tourist business in the area.

I hope you will vote "Ought to Pass."

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: This obviously is not a partisan issue and it is with great regret that I have to get up and oppose my very dear friend, Representative Wentworth, on this particular bill.

I find that there are a couple of problems with it. Number one, the eminent scholar and my brother lawyer from South Portland has told you this is the right governmental body, the appropriate governmental body, to establish these rights. In the next breath he says, there is some recent litigation. You are darn right there is some recent litigation, this

matter is right in the lap of the court.

I don't know whether you remember Chief Justice McKusick addressing this body earlier in our session, but he used the word "comity" and that is a lawyer's word you know -- a judge's word and the word comity means that one branch of the government shall respect the obligations and rights of the other branch of government.

I submit to you that the very issue that is before this House is presently before our judicial body. The judicial body is wrestling with the issue of what are the rights to the access of the intertidal zone. Are the rights to the intertidal zone so well established that no one would question them? Apparently not, apparently those rights are very much in dispute. What is not in dispute is the colonial grants that granted the rights to the intertidal zone for three purposes -- for fowling, fishing, and navigation.

What we are asked to do today is to say to the public, you will now have an additional right of fouling the intercoastal zone whether you want to have the fraternity party, the clambake or whatever you want to call it -- you have the right to use that intertidal zone and hope the tide will carry out the debris.

I say no, I want to protect the banks of the Sheepscot River, the banks of the Damariscotta River, and these are not beautiful sand beaches, these are beautiful rock ledges. If the rock-bound coast of Maine means anything to any of you, you will want to protect it, you will want to protect it from the incursion of thoughtless and irresponsible people saying, I've got a right to use this for recreation.

No, this bill is not quite as innocent as it looks. It does not create any existing rights, it creates absolutely new rights, expanded rights and, once you create a new right for one person, you are taking a right away from another person. If you own an island off the coast of Maine or if you own a shorefront property, either on the coast or on the banks of your river, and if you give the public the right to recreate on that intertidal zone, you are giving up a very precious right to keep that land from being spoiled.

I submit to you that when this bill was introduced before the Judiciary Committee in public hearing, the question was raised -- what about taking of property by eminent domain or what about the taking of property without just compensation? Do you know what the answer was -- don't worry, there is a bond issue coming that will compensate the property owners for that. That was the answer given, so are we to believe that there isn't a taking of property? There is definitely a taking of property by this bill and I submit that the bond issue doesn't approach the cost for taking the property rights of every river bank owner, of every coastal zone owner, because each one of them will be entitled to compensation for what he is being asked to give up by this legislature.

I submit that we ought to look long and hard at this legislation. Perhaps we ought to wait until the court has decided what the longstanding rights of the public are to that intertidal zone. If that is decided in favor of the rights of the public to use it, we won't need this bill, but we will need a lot more funding.

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

Representative KANE: Mr. Speaker, Men and Women of the House: The first thing I want to do is express my disappointment when Representative Stetson (staring at me) said, my dear, dear friend -- I thought he had forgotten my name for a moment -- then when he referred to Representative Wentworth, I was heartbroken. But as he said, we have a good time on Judiciary.

I would just like to respond to a couple of brief discreet points in Representative Stetson's remarks. The first was about the Massachusetts colonial ordinances -- the fact of the matter is that we have gradually diverged from the Massachusetts interpretation of those ordinances. As we all know, we have not been a part of Massachusetts since 1820, but those Massachusetts colonial ordinances did become part of Maine common law and our interpretation since that time has diverged on such things as, can one use the intertidal land to traverse from one place to another, can one skate on it, can the the public go skate on intertidal land if it is frozen over, and the answer, according to Maine decisions has been, yes. Massachusetts' answers to those same questions has been, no. So Massachusetts has historically has a more narrow interpretation of the public trust rights within in the intertidal zone than Maine has.

With regard to which body is the proper body and which branch ought to be looking at this, there is room for reasonable people to disagree.

I would like to bring to your attention a remark from the Maine Superior Court in a case on the intertidal land with regard to exactly that point -- which is the appropriate body? The Maine Superior Court said, "Anyone seeking to eliminate or modify a sovereign right or anyone seeking a declaration of a sovereign right that will be binding on the people of this state must first go to the legislature, which is the ultimate trustee of our sovereign rights." I think that that really does go directly to the issue that Representative Stetson raised, namely which branch is the correct one at this stage in the game -- if there is something improper about us expressing our intent as outlined in this bill. I think the answer is clear now.

With regard to the fraternity party and those other sorts of things, I refer you to Page 3, line 15 of the bill which is the police power section which makes it very, very clear that there is no municipality that is going to be left without power to enforce that.

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

Representative BONNEY: Mr. Speaker, Men and Women of the House: May I ask a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative BONNEY: I happen to be one of those people that is fortunate enough to live on an intertidal zone. My question is, am I, under this proposed law, going to be liable for any other person that comes on my property and gets hurt?

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

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

Representative KANE: Mr. Speaker, Men and Women

of the House: The whole point of this proposal is that it recognizes and confirms, public trust rights in the intertidal zone as they exist today. It would affect no liability whatsoever. It would preserve the status quo. It was clearly the intent of the committee and of this legislation and of this legislature that when it passed this legislation that there be no change whatsoever in whatever liability exists now.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: May I have permission to address a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative SCARPINO: To anyone from the Judiciary Committee who could answer this -- if this bill passes in relation to aquaculture leases in the intertidal zone that were already let with specific limitations on that lease and specific protections provided in that lease, one of those protections not being access of public to walk across it -- what grounds would the aquaculturists have to prevent the recreational use of that intertidal area that was his lease from causing damage to his aquaculture product?

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

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: Specific state law in this area will remain as it always has. If there is a specific state law which supersedes the general trust rights the public has because this legislature has so deemed it, then that will not be affected. That is what we have done as a matter of fact in aquaculture and in other areas. The bill is very clear as to that situation. The important thing to remember is, we are not changing any rights. What we are doing is merely recognizing rights which exist today, so your aquaculture situation would not change.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: Once again, permission to pose a question through the Chair?

The SPEAKER: The Representative may proceed.

Representative SCARPINO: A little further clarification -- I understand what you are saying, I apparently didn't explain myself enough. When the commissioner lets an aquaculture lease, the prohibited uses of the area and the permitted uses of the area are written in the lease. Up until this point, no one to my knowledge has ever filed a lease. They had always operated on the assumption as if they had an intertidal lease. They could prevent people from walking over the flats that that product was in; however, no lease has ever written to my knowledge that prevented someone from walking over that lease. The aquaculturist always assumed he had the right to keep people off it, it has never been written any place. Would this law, this clarification, create a situation with that lease where the aquaculturist, because his lease does not specifically deny the public access to that lease site area, would this place that lease in jeopardy?

The SPEAKER: The Representative from St. George, Representative Scarpino has posed an additional question through the Chair.

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: In order to answer the question, I will have to read what Representative Priest said, namely that this will not affect any specific acts of this legislature, or previous legislatures or any rules and regulations of, for example, the Department of Marine Resources which have been promulgated under authority delegated to them by the Maine Legislature. This would be a general law just as (to repeat myself again) this is sheerly nothing more than a confirmation and recognition of the existing rights in the intertidal zone and would not have any effect.

With regard to that municipal question, if I can just make it a little more clear -- I will read you the section, it is Section 3 in the last part of the bill and it is police powers. It says, "Municipalities shall have jurisdiction to exercise their police powers to control public use of intertidal land."

I think that is a grant of power of very wide latitude -- "except where such exercises are superseded by state law." I think it is pretty clear that what the Department of Marine Resources is doing with a lease between that department and aquaculturists would stay exactly the way it is; it would be unaffected by this.

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

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I happen to represent some five islands in my particular district and when the explanation or the writeups about this bill came out in the paper, they became extremely concerned about this issue. So, a week ago Saturday with representatives from all the islands present, the primary sponsor of this bill and I met with them and we went over the issues. We explained, for example, the police power aspects of it, the liability aspects, the fact that this would not distress any agreements, because I do have some fishermen who experiment with lobster growing out on one of the islands.

Once we had gone over all of the facts of the bill, the entire group decided to support this legislation. The most eloquent plea of all was made by a real estate agent who is very well respected in our community named Howard Heller, who sells a lot of island and shoreline property. He feels very strongly that we need this clarification bill. He says it is vitally important. He sells to an awful lot of out of state people, they become confused, they want answers to their questions and, because the law is silent on the recreational aspects of it, he feels that this piece of legislation is critical and that it needs to be done now.

The issue of fraternity parties and ghetto box blaring and all of that is quite prevalent on one of our islands. They have had an awful lot of problems on the rocky side of Peaks Island, for example. Again, I'll have to concur and agree that it is a matter of enforcement through local ordinances.

I believe, as has been pointed out to you under the police power section of this bill, that

communities have just got to begin enforcing their laws or their rules and if they don't have any, they should get some together.

An issue has been raised by Representative Scarpino which may be legitimate but I don't think that we can ever legislate the effect of the moon on the tides. However, if there were to be an amendment to amend this bill along the lines of what he is suggesting, we need to get it to second reader in order to do that.

I would like to ask you to at least give us an opportunity to hear more about what his proposed amendment might mean to the bill in the long run. In order to do that, we have to go forward.

I think that if there was any thought whatsoever that any leases in aquaculture, that there might be some distress to those agreements, while I personally believe there won't be, I believe that any lease can be amended to assist those people who might be concerned about it, but Representative Kane indicates that nothing will change.

At first I thought that the island communities probably tend to be very critical and very tough on issues that impact upon them particularly where they own the property. I was very pleased to see them totally turn around. As their Representative, I can say to you very comfortably that they support this measure, it is very badly needed, and the time is now.

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

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I become more and more confused when I hear people say that this is badly needed. If, as the good Representative Kane from South Portland has stated, that we are not creating any new right, we are merely -- what is that word he used -- confirming sovereign rights. I can't see where the good Representative from Portland gets the notion that this is badly needed legislation. The sovereign rights that Representative Kane is talking about would, in effect, override any local ordinances. So, any zoning that zones your coastal area to be residential can quickly be overcome by somebody using your intertidal zone for commercial purposes, setting up a little stand to rent sail boats or surf boards or similar types of commercial action, playing ball.

In any event, the fact is that if this is such a sovereign right that has existed from colonial days, then this legislation is not needed. Let's let the court tell us that and let's let the court finish the case and decide the case that is already in litigation, already been argued. I might add that the Attorney General's Office would rather have us hold off on this legislation until the case is decided. So, let's not jump the gun.

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

Representative WENTWORTH: Mr. Speaker and Members of the House: In answer to my good friend down front, the reason for the great need at this time is because of the out of state people that are buying up the land and think they are buying all the rights of the state with it.

Representative MacBride of Presque Isle requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the

members present and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the Representative from Stonington, Representative Rice.

Representative RICE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair if I may.

I would like to ask any member of the Judiciary Committee, if this bill passes, what will happen to constituents in my district who now have in their possession deeds that state that they own to the low water mark?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: Their position will be precisely the same as it is now.

Representative Stetson of Damariscotta was granted permission to address the House a third time.

Representative STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I merely wanted to give a more satisfactory answer to the Representative from Stonington than was previously given.

The rights of the property owners who are granted the right to the low water mark would soon find its way into the courts for a decision as to whether that was overridden by this legislation so it would create a cloud on their title.

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

Representative KANE: Mr. Speaker, Ladies and Gentlemen of the House: The fact is the title and the deed will stay just the way it is. What we are talking about here is a confirmation of public trust rights that is impressed with the public trust of that land and the intertidal zone, it does not change ownership.

I also live in a coastal community with a rather substantial amount of property that is on the Atlantic Ocean and, as in Wells, it has been a long long time in my community where everyone has assumed that the public has these rights. They are so widely accepted and so recognized that they are, in fact, presumed. This is only a confirmation of that and the titles and deeds of all your friends and constituents will remain in force.

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

95 having voted in the affirmative and 49 in the negative with 7 being absent, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading later in today's session.

(See Roll Call No. 311)

The following item appearing on Supplement No. 7

was taken up out of order by unanimous consent:

ORDERS

On motion of Representative PARADIS of Augusta, the following Joint Order: (H.P. 1705)

WHEREAS, the Legislature may order a special election on any measure that is subject to a vote of the people pursuant to the Constitution of Maine, Article IV, Part Third, Section 18, Subsection 2; and

WHEREAS, direct initiative legislation has been transmitted to the Legislature which is identified as Legislative Document No. 2092, Initiated Bill 2, "AN ACT to Prohibit the Promotion and Wholesale Promotion of Pornographic Material in the State of Maine;" and

WHEREAS, it is the intent of the Legislature to refer this measure to the electors of the State at the next statewide election to be held on June 10, 1986, for determination by the people; now, therefore, be it

ORDERED, the Senate concurring, that the Office of the Secretary of State submit to the electors of the State for determination by the people at the next statewide election to be held June 10, 1986, the subject matter of "AN ACT to Prohibit the Promotion and Wholesale Promotion of Pornographic Material in the State of Maine;" and be it further

ORDERED, that a copy of this order be immediately transmitted to the Secretary of State.

Was read.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I object to this Order being in front of us. My understanding is that if an Order is taken out of order it would require suspension of the rules?

The SPEAKER: The Chair would advise the gentleman that that was granted when the Chair read the supplements.

Representative Higgins of Scarborough requested a roll call vote.

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

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

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: If I could pose a question to the sponsor of this Joint Order?

Having had this initiated petition before us with the communication from the Assistant Secretary of State, James Henderson, accompanying the petition when it was delivered to the legislature, in that communication his stating that, if the legislature did not take action, it would be addressed in the

November, 1986 election. I would like to have the gentleman from Augusta give us a full explanation why this would be addressed in June rather than in November?

The SPEAKER: Representative Murphy of Kennebunk has posed a question through the Chair to Representative Paradis of Augusta, who may respond if he so desires.

The Chair recognizes that Representative.

Representative PARADIS: Mr. Speaker, Men and Women of the House: I certainly will make every effort to answer the question posed by the gentleman from Kennebunk.

I have here in my hand an opinion from the Attorney General of the state. It is an answer to a question posed to him by the gentleman from Canaan, Representative McGowan. It asks the question you have asked and let me quote, "You have asked the opinion of this department whether initiative legislation presented to the Second Regular Session of the 112th Legislature, if not enacted, could be presented to the voters in referendum at the time of the statewide primary elections held on June 10, 1986. In response, it is the opinion of this department that the inquiry is answered directly by the final section of Subsection 2, Article 4, Part 3, Section 18 of the Maine Constitution and I quote, 'The Legislature may order a special election on any measure that is subject to a vote of the people.'"

When the Constitution was amended in 1980 specifically for this reason, the Constitution was clarified as to whether the powers of the electors, power of the legislature or the power of the Governor of the state would decide when issues would be decided by the people.

In the opinion of the Attorney General, again quoting, "The 1980 amendment establishes a clear preference for the presentation of referendum questions at an otherwise scheduled statewide election. This purpose is clearly reflected in the ballot question prepared by the same committee that wrote the amendment and contained in the Resolve itself quoting, 'shall the Constitution of Maine be amended to change the referendum provisions so that the direct initiative and people's veto elections can be held at the same time as a scheduled statewide election?'" The Constitution is clear that the legislature has the power by Order, not by law, but by Order, to schedule when an initiated bill can be presented to the voters. It is the opinion of his office and the opinion is six pages long. Quoting, "Accordingly it is the conclusion of this office that the referendum vote on initiated legislation, not enacted, may be ordered to take place at the same time as the previously scheduled June, 1986 primary election or at any other time by passage of a Joint Order by a majority of each House directing the conduct of a special election."

I voted to enact this initiated bill. I got up here some ten days ago and spoke from this very same spot and said I had every reason to believe that this bill should be enacted and sent to the law court for a decision on its constitutionality. At the Joint Standing Committee on Judiciary hearing held on this initiated bill, we asked, how many of you here who are supporters of this initiated bill favor its enactment by the legislature? Most of the people in the room raised their hand. I think the debate on this issue was instructive, it certainly was very civilized and everyone that said, send this out to

the voters said, let them decide. That is what this legislature established, let's send it out to them at the earliest possible time that they have a chance to vote on this issue. Why stall it for five or six months? Why not let them decide the issue in June at the next statewide election? There is no reason other than obvious political reasons to put it forward to November when the people want to vote on it now. They presented this issue to us in January as an initiated bill, let them vote on it at the earliest possible time. I urge adoption of this Joint Order.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I feel very fortunate to have received an early copy of that Attorney General's opinion, which was about 20 or 25 minutes ago. The official copy was just handed to us as the gentleman from Augusta was speaking.

I have five questions that I would like to pose to the gentleman from Augusta.

The first, those citizens, who may be on the opposing side of that referendum, less than 60 days will not be sufficient time for the research, legal, or raising the dollars to get their viewpoint to the Maine people. I would like to have the gentleman address that.

As a second question, I would also like to have the gentleman answer -- since 1980, can he cite another precedent such as this, the passage of a Joint Order, changing a referendum date?

Three, I would like to have him answer, why the June election, which is traditionally election where the parties vote, Democratic, Republican, the registered voters of this state vote rather than the unenrolled, why he would pick an election where traditionally the unenrolled voters are disenfranchised? And why he would want to have an election on such a major important issue decided by 15 to 20 percent of the people rather than 60 percent?

I guess the final question has to do with the straight face test. I watched the gentleman from Augusta very closely and he didn't smile while he did this but in terms of, as the sponsor of this Joint Order and then also the unofficial sponsors of this Joint Order, in terms of, how can you, with a straight face, say that in the Democratic June primary and the Republican June primary, you aren't playing politics?

The SPEAKER: Representative Murphy of Kennebunk has posed a series of questions to Representative Paradis of Augusta, who may respond if he so desires.

The Chair recognizes that Representative.

Representative PARADIS: Mr. Speaker, Men and Women of the House: As a firm believer in the straight face test in politics and not being a card player of any kind, I can certainly stand before you and answer your questions this afternoon.

Let me answer the last question first. To imply that the only reason that we seek to pass an Order or pass legislation is purely political, questions very much the motives of everybody in this body and everyone who put the initiated bill before us -- when I was at the hearing on this particular bill, I don't recall any member on the Judiciary Committee, either the majority or the minority parties, questioning the motives of the Reverend Jasper Wyman when he presented this petition to us. I don't recall that question ever coming up. What Mr. Wyman

asked for was that this bill become a law, that if we did not choose to do it, then send it out to the voters. I think to imply that only a November election is the proper forum for this initiated bill is certainly a political question and certainly is a political implication, a political mark against everyone in this body.

In answer to some of your other questions, whether or not there is enough time to mount a campaign, let me say -- how much time do we need to give the out of staters time to organize and fund a smut campaign against this initiated bill? Do the Penthouse and Hustler and Play Boy foundations need three months or six months or a year to gear up to oppose the people of Maine in presentation of their initiated bill? I think the people from the Christian Civic League and others who have petitioned this legislature for enactment of this law have a right to have the issue decided for them by the people at the earliest possible time. I am not for letting those out of staters come in here and organize the state, pump in hundreds of thousands of dollars so they can tell us how to vote on the first amendment, freedom of speech. If there is going to be a campaign, let it be run and directed by the people of Maine.

Your third question perhaps was the most interesting one, my good friend, because it implies that Independents do not want to vote in primaries, that they have absolutely no interest in voting in June elections.

We have clear precedent, I understand, where there have been questions other than political candidates on ballots in June primaries. Independents come out to vote in local elections, local referendum questions and local bond issues in June primaries. To say that Independents, because they have not registered in a party are not interested in what we do here, is really an insult to those who are not members of any party. There are many people in this town of Augusta that I represent, because they work for the state government or the federal government, do not choose to register in a party because they work in sensitive, governmental positions, but make no mistake, they have every interest in what we do here, their taxes are affected by what we do, their lives are affected by the laws we pass and they have every interest in voting in primaries and coming out to vote, if only to see other issues decided other than who we put up to oppose each other in the different parties.

If this does nothing more than bring out a heavy Independent vote in the June primary, then it will have certainly served a very good purpose of giving the Independent's a chance to vote for something besides two or three Democrats or two or three Republicans on the ballot.

I would encourage you to vote for passage of this Order because there is more at stake here than just politics. At stake here is our ability to understand the people who have petitioned us to enact this bill and decide with them and to say once and for all, we are not going to wait and wait and wait and put it off to the time we best think is necessary for this bill. We want it decided in November because there may be more people there or it might favor one candidate or the other. Let's face it square on in June so that it doesn't have to be put off. Let's face it right now in June, the earliest possible time.

The SPEAKER: The pending question before the

House is passage. Those in favor will vote yes; those opposed will vote no.

80 having voted in the affirmative and 64 in the negative with 7 being absent, the Order received passage. Sent up for concurrence.

(See Roll Call No. 312)

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Strengthen State-Local Cooperation through Regional Councils (H.P. 837) (L.D. 1181) which was Passed to be Enacted in the House on March 17, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-558) as amended by Senate Amendment "A" (S-409) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-558) as amended by Senate Amendment "B" (S-501) thereto in non-concurrence.

The House voted to recede and concur.

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Expand and Continue Alcoholism Treatment, Education, Prevention and Research Programs (H.P. 951) (L.D. 1370) which was Passed to be Enacted in the House on March 17, 1986 (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-532))

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-532) as amended by Senate Amendment "H" (S-502) thereto in non-concurrence.

The House voted to recede and concur

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Expand the Maine Conservation Corps (Emergency) (H.P. 1251) (L.D. 1761) which was Passed to be Enacted in the House on April 10, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-524) as amended by Senate Amendment "A" (S-460) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-524) as amended by Senate Amendments "A" (S-460) and "B" (S-503) thereto in non-concurrence.

The House voted to recede and concur.

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Increase the Maine Child Care Credit Under the State Income Tax (H.P. 1310) (L.D. 1826) which was Passed to be Enacted in the House on March 14, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-562) as amended by Senate Amendment "A" (S-406) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-562) as amended by Senate Amendment "B" (S-514) thereto in non-concurrence.

The House voted to recede and concur.

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

PAPER FROM THE SENATE

Non-Concurrent Matter

RESOLVE, Creating a Maine Commission to Commemorate the Bicentennial of the United States Constitution (Emergency) (S.P. 813) (L.D. 2045) which was Finally Passed in the House on April 12, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-443) as amended by House Amendment "A" (H-684) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-443) as amended by Senate Amendment "A" (S-504) thereto in non-concurrence.

The House voted to recede and concur.

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Increase the School Bus Purchase Limit (S.P. 817) (L.D. 2062) which was Passed to be Enacted in the House on April 3, 1986.

Came from the Senate, Passed to be Engrossed as

amended by Senate Amendment "A" (S-505) in non-concurrence.

The House voted to recede and concur.

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Promote Intensive Spruce-fir Management (H.P. 1468) (L.D. 2070) which was Passed to be Enacted in the House on March 26, 1986. (Having previously been Passed to be Engrossed as amended by House Amendments "A" (H-571) and "B" (H-595).

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "C" (S-513) in non-concurrence.

The House voted to recede and concur.

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Establish the Maine State Parks Development Fund (H.P. 1483) (L.D. 2095) which was Passed to be Enacted in the House on April 2, 1986. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-605).

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-605) as amended by Senate Amendment "A" (S-506) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 18 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Provide Funding for Mental Health Programs (H.P. 1524) (L.D. 2144) which was Passed to be Enacted in the House on March 12, 1986.

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-507) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 19 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Phase Out the Sales and Use Tax on Energy Used in Manufacturing (H.P. 1555) (L.D. 2193) which was Passed to be Enacted in the House on March 20, 1986.

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-508) in non-concurrence.

The House voted to recede and concur.

The following item appearing on supplement No. 20 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act Concerning Transitional Services for Handicapped Persons Beyond School Age (H.P. 1592) (L.D. 2245) which was Passed to be Enacted in the House on April 12, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-694)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-694) as amended by Senate Amendment "A" (S-509) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 21 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Provide Medicaid Coverage for Mental Health Services for Children in Certain Hospital Facilities (H.P. 1610) (L.D. 2267) which was Passed to be Enacted in the House on April 2, 1986.

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-517) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 22 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act Relating to Medicaid Fees for Pharmacies (H.P. 1611) (L.D. 2268) which was Passed to be Enacted in the House on April 2, 1986.

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-510) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 24 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

RESOLVE, to Establish a Maine Commission to Examine Chemical Testing of Employees (Emergency) (S.P. 934) (L.D. 2343) which was Finally Passed in the House on April 12, 1986. (Having previously been passed to be Engrossed as amended by Senate Amendment "A" (S-475))

Came from the Senate, Passed to be Engrossed as amended by Senate Amendments "A" (S-475) and "B" (S-511) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 23 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Insure the Rights of the Staff of the Projects Serving Preschool Handicapped Children and Other Preschool Teachers Employed by Public Schools to Receive Maine State Retirement (Emergency) (H.P. 1662) (L.D. 2340) which was Passed to be Enacted in the House on April 10, 1986.

Came from the Senate, Passed to be Engrossed as amended by Senate Amendment "B" (S-518) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 25 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Protect the Public Health in Relation to Acquired Immune Deficiency Syndrome (Emergency) (S.P. 943) (L.D. 2367) which was Passed to be Enacted in the House on April 12, 1986. (Having previously been passed to be Engrossed as amended by House Amendment "C" (H-695))

Came from the Senate, Passed to be Engrossed as amended by House Amendment "C" (H-695) and Senate Amendment "A" (S-512) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 29 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Implement the International Registration Plan to Apportion Fees for Certain Commercial Vehicles (S.P. 804) (L.D. 2019) (C. "A" S-485)

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

The following item appearing on Supplement No. 30 was taken up out of order by unanimous consent:

COMMUNICATIONS

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON STATE GOVERNMENT

April 14, 1986

The Honorable John L. Martin
Speaker of the House
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on State Government during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	46
Unanimous reports	42
Leave to Withdraw	13
Ought to Pass	5
Ought Not to Pass	1
Ought to Pass as Amended	11
Ought to Pass in New Draft	12
Divided reports	4

Respectfully submitted,

S/Thomas H. Andrews
Senate Chair

S/Dan A. Gwadosky
House Chair

Was read and ordered placed on file.

The following items appearing on Supplement No. 32 were taken up out of order by unanimous consent:

ENACTOR

LATER TODAY ASSIGNED

An Act to Amend the Insanity Defense and Certain Procedures Relating to Committed Insanity Acquittees (H.P. 1702) (L.D. 2397)

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

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

PASSED TO BE ENACTED

An Act Relating to the Social Worker Registration Law (H.P. 1683) (L.D. 2370) (H. "A" H-712)

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

The Chair laid before the House the following matter: An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 for Coastal Access, Harbor Improvements, Maine State Ferry Improvements and Marine Laboratory Improvements (S.P. 895) (L.D. 2250) (C. "B" S-490) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Bell of Paris, the House reconsidered its action whereby L.D. 2250 was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "B" (S-490) was adopted.

The same Representative offered House Amendment "A" (H-727) to Committee Amendment "B" (S-490) and moved its adoption.

House Amendment "A" (H-727) to Committee Amendment "B" (S-490) was read by the Clerk.

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

Representative BELL: Mr. Speaker, Men and Women of the House: This is just a technical correction in the original bill drafted by the budget office. McKown Point was located in Boothbay and it is actually located in the Town of Boothbay Harbor. So, we are just adding the word Harbor to Boothbay.

Subsequently, House Amendment "A" to Committee Amendment "B" was adopted.

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

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

The following item appearing on Supplement No. 33 was taken up out of order by unanimous consent:

PASSED TO BE ENGROSSED

AS AMENDED

Bill "An Act to Confirm and Recognize Public Trust Rights in Intertidal Land" (S.P. 950) (L.D. 2380)

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

Representative Scarpino of St. George offered House Amendment "A" (H-730) and moved its adoption.

House Amendment "A" (H-730) was read by the Clerk.

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

Representative SCARPINO: Mr. Speaker, Men and Women of the House: This amendment is a technical amendment. It addresses the concern I had earlier. All it does is strike out the words "ordinary" in "ordinary high tide" and put in the word "mean" for "mean high tide" which is the general accepted terminology for the definition of high water.

Subsequently, House Amendment "A" was adopted.

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

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following item: An Act to Establish the Maine Business Opportunity and Job Development Program (S.P. 952) (L.D. 2387) (H. "A" H-703) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter: An Act to Amend the ATV Laws (Emergency) (H.P. 1583) (L.D. 2229) (H. "A" H-696; C. "A" H-662) which was tabled earlier in the day and later today assigned pending passage to be enacted.

Representative Davis of Monmouth requested a roll

call vote on passage to be enacted.

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

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

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

122 having voted in the affirmative and 19 in the negative with 10 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(See Roll Call No. 313)

The Chair laid before the House the following matter: An Act Relating to Boards and Commissions (H.P. 1614) (L.D. 2269) (S. "A" S-493 to H. "A" H-657 and S. "A" S-446) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter: An Act to Recodify the Laws of the Maine State Retirement System (S.P. 886) (L.D. 2231) (H. "B" H-690) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter: An Act to Implement the Visiting Committee's Report and to Provide the Necessary Funds for the University of Maine and the Proper Operation of Government (H.P. 1641) (L.D. 2315) (H. "F" H-711 and H. "G" H-713 to H. "A" H-700) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative BAKER: I move that the rules be suspended for the purposes of reconsideration.

The SPEAKER: The Chair hears objection.

Representative Baker of Orrington requested a roll call vote.

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

A vote of the House was taken and more than

one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is suspension of the rules. A two-thirds vote of all members present and voting is necessary. Those in favor will vote yes; those opposed will vote no.

70 having voted in the affirmative and 73 in the negative with 8 being absent, the motion did not prevail.

(See Roll Call No. 314)

Representative Baker of Orrington requested a roll call vote on passage to be enacted.

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 Orrington, Representative Baker.

Representative BAKER: Mr. Speaker, Ladies and Gentlemen of the House: Unlike the Representative from Livermore Falls, I am not shocked by the vote, I am just a little upset.

We have before us today a bill to provide \$15 million to the University System of Maine. I am not questioning whether or not that increase is appropriate or whether the \$15 million is the right figure but I would like to point out to the House that the legislature has doubled its commitment to the University of Maine in the last seven years. We have increased our investment from the General Fund from \$43 million in the fiscal year ending June 30, 1980 to \$86 million in the fiscal year about to begin.

This bill before you today would provide a further 17 percent increase in the next fiscal year. I don't see that as the issue that I would like to discuss this afternoon. What I would like to discuss is the issue of accountability. If you look at this bill that you have before us, it says \$15 million, here it is, be our guest.

I don't know how most of you run your home but I certainly would not run my home on that kind of a basis -- here it is, go out and spend it. What I would ask is, is that money being well spent? Are the taxpayers of the State of Maine getting their money's worth?

By your action earlier this afternoon, you have prevented the taxpayers from knowing whether they are going to get their money's worth or not because there are no goals, there are no pre-established measurements and there are no reports back on exactly how well the university campuses have done in spending that money that you have given them.

Now, why am I concerned about this? Why don't we just trust these people and say they are good folks and they will do their best? Well, ladies and gentlemen of the House, in researching the \$15 million, I came across a couple of items that kind of made the hair stand up on the back of my head and I had to say to myself, wait a minute, I am not sure that these plans and these programs are yet in place. If they are not in place, what guarantees do

we have that the trustees will require that these programs be planned well in advance and that they then obtain information as to how well the campuses met the goals that had been established by those plans.

Let me give you two examples. One, there is an item in the budget for \$1 million to "enhance the national prominence" of six programs -- no details, \$1 million to "enhance national prominence."

A second example, there is \$1.3 million in so-called programmed funds where projects have not yet been defined.

I am not saying that the campuses who are being given this money won't do a good job. I am not saying that at all. I am not saying that perhaps they don't need that money but what I am saying is that I don't feel comfortable that we don't have some established facts up front and that we don't have any real assurance from the trustees, the same people who gave you five year goals in the strategy report of three typewritten pages back in December. I don't have any confidence, necessarily, that they will force the campuses to spend that money appropriately.

Yes, I am upset today and I think you should be too that you are passing out \$15 million of taxpayer money and you have no way of assuring yourself and the taxpayers that that money is going to be well spent.

Unfortunately, without those accountabilities, you force me to say to the voters in my district, I am going to vote against this \$15 million appropriation.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: We have the proposal that allocates the money to the University of Maine System before us this afternoon. Attached to that proposal, we have the package which supposedly is going to fund that proposal plus part of the supplemental budget or what this legislature deems it wants to spend for the Appropriations Table.

The question was asked Saturday afternoon, I believe by the gentleman from Augusta, Representative Sproul, as to where the additional dollars that were to be raised through this package that was attached to the University of Maine spending bill, would be spent. I don't think I have to stand here and tell you today where that money has been spent. A portion of that money was expended for legislative salaries, a portion of it was expended for other purposes that we have had before us in the last five hours.

I do think that it is improper and irresponsible to ask Maine residents to continue to foot the bill. I made a speech from this floor about a year and a half ago that raised the cockles of one gentleman's heart in this row (I am sorry he is not here today) but I am going to use those same words again. Here we go ladies and gentlemen, we are spending and taxing and spending and taxing. We are spending beyond our limits, we are taxing beyond our limits.

I don't know how many members of this body have had the report that was made available by the American Conference of Intergovernmental Relations as it related to taxation per capita to the residents of the State of Maine. It is evident to me that we are grossly overtaxing people in this state. That report reported that Maine had the ability to pay taxes of about 83 percent. We were taxing those people or our residents at approximately 113 percent. There is

quite a disparity there.

I have to take issue with the Majority Leader regarding his statements he made Saturday afternoon and that has been printed in the press, that Maine residents aren't going to pay this tax. I think Maine residents pay lodging taxes, particularly when they take vacations, particularly when they go to many of the campgrounds, many of the hotels and motels, recreation areas in the state, I don't believe they are immune from the sales tax.

In those additional dollars that are taken from those pockets, those pockets aren't real deep pockets, those pockets are no deeper than ours here, you are taking monies out of those pockets which they could be spending for something else. They could be spending for a hamburger, they could be spending for a hot dog, ice cream, candy bar, soda, whatever the case may be. Every time those purchases are made, they assist some business, they assist the tax coffers of the State of Maine.

I would like to respond to the access charges on the long distance calls, the interstate telephone calls. If, and I say if, the Federal Communications Commission allows the pass back to local communities as it relates to the current tax on the telecommunications industry in this state and if AT&T files another rate -- incidentally that rate tariff was filed, if they respond on April 24 or if they don't respond on April 24, that is 54 days. It doesn't take long to file one of those rate tariffs and to be responded to. What occurs then? There is an additional five percent tax that is going to be passed back through to your constituents, those people who use those very telephones. What is even more dangerous is the large industries which use 800 lines, which are leased by those companies, and those access charges are charged.

The danger we have is a bypass. What happens in a bypass? They set up their own microwave facility, they go across the border, they set up their own phone banks across the border, have one line running into Maine with a continued flow of computer data coming through to that plant or that company. What happens then when we lose that taxpayer or that ratepayer? We are talking about a substantial portion when you talk about the L.L. Beans, the Union Mutual and some of the larger companies in the state. When you lose those ratepayers, who picks up the base? Who picks up that loss of revenue to New England Tel. and Tel. or to AT&T, MCI or SPRINT? Who picks it up? It is going to be your constituents and your people who use those phones. How many additional dollars is that going to be in their bill per month above and beyond the sales tax on access charges?

Again, we talked about the bank franchise tax. Again, we are a relatively poor state as it relates to capital even though we have had the invent of interstate banking. Not every one of the banks in the State of Maine are the large banks, the interstate banks, there are several small banks, there are several mutual banks in the State of Maine located in various remote areas of the state. Small communities, which provide a financial service to those communities and we are asking those banks who are responding to the needs of those people in those areas, for additional dollars.

Then we have the new tax, the fabrication tax. I don't believe anyone can stand here honestly this afternoon and tell you exactly what it does. I don't

think anyone knows exactly what it does yet, it is a new field. We do know that it is directed to taxing of services. But to what services defined, even though the intent is to lessen this impact on many of the Maine residents, I don't believe that is going to occur. Several of those fabrications businesses, several of those people who will be dealing with the fabrication tax and will be accessed are Maine businesses, many of them are small businesses, many of them are very competitive, highly competitive businesses.

Therefore, I just feel where this afternoon that we are dealing with a package that everybody wants to say is to help the University of Maine.

Therefore, I just feel where we are dealing with a package that everybody wants to say is to help the University of Maine, but in reality ladies and gentlemen, if it was, it would just have \$15 million attached to it and not \$19 million plus attached to it.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I think it is time we got some facts straight around here. For a long time, there has been a myth on the part of the people of our state who send us down here to represent them, and for some reason, those people are under the impression that we actually have some ability to control spending around here. I have tried my darndest to get out there and tell them that this, indeed, is not the case.

Let's just quickly review some figures so that we can demonstrate to the people that we represent that our ability to control spending is no better than that of those in Washington, who we are all now pressuring to try and get the deficit under control. In fact, our General Fund spending here in the State of Maine has risen from \$335.5 million in 1976 to a projected \$1.03 billion or maybe even more in 1987, an increase of greater than 200 percent -- not exactly controlling spending in my mind.

Perhaps we could go on with business as usual if we faced nothing more than the problem of finding the \$15 million for the University, which in my mind, is needed and should be funded, but prior to instantly going after the taxes, which seems to be the very first reaction of a lot of people around here, we should have looked where some monies could have been saved.

We should have set some priorities because we are going to need a lot of revenue. We are going to need it in the not too distant future because, in case you people are not aware, there seems to be a problem with the deficit down in Washington. When they are trying to get that deficit under control, it's going to have an adverse effect, not only in the State of Maine, but in every other state as well.

The maximum ceiling for that debt limit is going to be \$145 billion this year and phased down to zero over the next five years. Does anyone here actually believe that that is not going to have an effect on this state? Does anyone here believe that we are going to be receiving the same amount of federal dollars in the future that we have in the past? I don't believe so. As a matter of fact, I remember the Speaker one day telling us how much we are going to be losing in educational aid -- it was a fairly substantial figure, if I recall.

The fact is the people of this state are being set up for a major tax increase, another crisis situation that this body was not able to avoid, and therefore, we have to raise the revenue so we can avoid that crisis. The simple fact is that this body and this administration, the policy makers, the lawmakers of this state are doing nothing to prepare us for the revenue shortfall we will be facing -- in my mind, a very irresponsible act; in my mind, not a good way to represent the people who sent us down here to look out for their best interests.

How much money will we need, how will we raise it? How will we raise the money we are going to need in June if the Governor calls us back for Corrections? Where will that money come from -- the guess is more revenue estimates. Where will the money come from in the fall -- I don't know. Maybe some one can tell me, maybe it will be a penny in the sales tax, maybe it will be an increase in the income tax. It will be something because I can assure you it will not come from prioritizing, not if past performance is a basis of record.

I am thoroughly disgusted with our inability to try and look out for the best interests of our people -- the pockets of our people. Yes, Representative Diamond, this is going to have an adverse effect on the people of the State of Maine. All these taxes are not going to be hitting out of staters. As a matter of fact, if you research tourism, you will find that a substantial amount of Maine people enjoy looking around the State of Maine and traveling -- tourists, you might call them. There is a lot of this state to see and they enjoy seeing it.

What is our tax burden? Our state and local tax revenue is a percentage of personal income presently. According to the National Federation of Independent Businesses our state ranks tenth highest in the nation and second highest in New England. Based on this, Maine is more heavily taxed than Massachusetts on a per capita basis -- not a record to be proud of.

How much worse is it going to get? What does it take for us to start paying attention, to start prioritizing, to start looking out, to start bringing spending under control, rather than the usual tax and spend, tax and spend, business as usual? It is really frustrating. Someday, I hope somebody will do something about it.

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

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I guess, like the Representative from Livermore Falls, I too am shocked today. I really didn't expect this debate to be reopened. You know, the gentleman from Mr. Desert just made a very interesting point when he said that, in relation to the average income in Maine, we pay a heavier tax burden than the State of Massachusetts and that's true. I guess that where we differ is in how we would explain that.

I drive down Route 128 in Massachusetts and I see the Silicone Valley of the Northeast, I see all the high-tech industry along Route 128 and then I come back here and I listen to arguments that have been made on the floor of this House for the past four years that the reason that Maine doesn't attract this high-tech industry is because of corporate taxes, workers' comp, whatever, whatever. I know, because in Taxation we analyze these kinds of things and the gentleman from Mt. Desert knows that the corporate

tax rate in Massachusetts is much higher than it is in Maine. Property taxes in Massachusetts are much higher than they are in Maine and, in fact, most taxes are. Yet these industries go there, they locate there, they employ people there and their big point is they pay top dollar. The average income in Massachusetts (I don't have the figure with me today) but I am sure it is at least double what it is in Maine, probably more. You have to ask yourself why. I think there is one big reason. The State of Massachusetts, and the Boston area in particular, has perhaps the finest educational facilities in the country -- that's why.

What we are talking about here with L.D. 2315, as amended, is a commitment to the future of the State of Maine, a commitment to education in the State of Maine. Long term economic development in the State of Maine is not going to happen without a commitment to education.

The reason that I am shocked that this debate would be entered into again today is because I was disgusted Saturday. You see, in spite of being kept here from ten o'clock to three, waiting for something to be drafted, in spite of putting the Maine taxpayer through the expense of drafting it, the minority party after having been given two chances to offer an alternative to fund this, didn't offer one. Only one offering has been made to fund this and there is only going to be one because, in my opinion, and I think it was demonstrated very nicely here Saturday afternoon, the minority party in this House never intended to make a commitment to fund that package.

The gentleman from Mt. Desert talks about controlling spending and setting priorities and money that could be saved -- well, the process in this legislature that he finds so disgusting entails a committee process. We have an Appropriations Committee in this legislature. It is made up of eight members of the Democratic Party right now and five members of the Republican Party.

In my opinion, that committee has some of the brightest minds in this legislature, both in the House and in the Senate. I have a great deal of respect for the Democrats on that committee and the Republicans. They set the priorities in spending. Most of the stuff that we are funding here came out of that committee unanimous. I am glad that it did because it shows a bipartisan effort to set spending priorities. I think they have done an excellent job.

The gentleman from Harrison said that the tax package is \$19 million plus. The final figures that I received this afternoon from Mr. Schlosser's Office are more in the vicinity of \$17 million. But what is a couple of million dollars in the course of a debate? I won't grasp at such straws.

The point is, yes it is meant to fund \$15 million for the University of Maine and a number of other very important priorities that the Appropriations Committee has identified. I have seen what they have identified, I agree with them. You talk about projects like the bill to aid the development of Lumford, a corporation in Brewer, you are talking about the VTI bill -- I consider them high priorities. I won't go into it any further, I think any member of Appropriations can stand here and tell you what the priorities are that have been set in this legislature. I will cast a vote to fund them because I am happy with the priorities set by this legislature.

I am particularly happy that we are making a

commitment to education. When I presented the funding bill in the Taxation Committee to fund the University of Maine request, I considered it the best thing I have done since I have been in the legislature because I don't think there is any higher priority for us to face than higher education.

I am sure that as the debate wanes on this afternoon, we will hear from members of Appropriations about priorities, we will hear other comments concerning spending in this state but as I have reviewed what the Appropriations Committee has done, I am proud to support it, proud to support the taxes to pay for it because I think that is all part of making a commitment to something. I have never been ashamed or afraid to make a commitment.

The SPEAKER: The Chair recognizes the Representative from Lagrange, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Men and Women of the House: I don't need a half an hour to state my position. I am an alumnus of the University of Maine and I had every intention of voting to support this bill but when my good friend from Orrington suggested accountability and we, as a group, refuse to consider accountability, I think I have got very good reason to assess my position before I cast a vote.

The SPEAKER: The Chair recognizes the Representative from Mt. Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: Representative Cashman, I agree with you. I agree with you that funding for the University is vital for future economic development of this state but I disagree with you as to how we are funding this particular issue.

I disagree that the Governor's first reaction was to come forth with nothing but taxes and so-called closes in loopholes and not everyone considers those loopholes closing. I think if you look at the fabrication tax and a few others, you will find that is going to be a little more than a loophole to some people in this state.

I disagree with the lack of our ability to prioritize. I know darn well there are some monies down there that could be saved. We could talk about them right now and I told you about some of them last week in committee. The fact of the matter is that they wanted to raise, not only money for the University funding, not only money for the supplemental budget, but a little bit left over for some of those L.D.s that are sitting down there to help out a few people.

I am drastically concerned today, not only with the issue of economic development, University funding, but what is going to happen to the people in this state when the federal cuts come down -- what are we going to do? Unless there is a piggy bank hidden under that dome up there, we are in a lot of trouble and I don't know what we are going to do.

Maybe somebody has a plan they haven't told us all about. I will be very interested to see what it is when the time comes. I would be willing to bet it is going to involve some sort of a revenue enhancer, some sort of tax, if you will, more money out of the people's pockets. I am concerned about that. I guess I am not concerned about the state doing things that are needed for people because that is something we should be doing. I am just concerned when we keep on taking money, and taking money, and there doesn't seem to be an end to it. In ten year's time, when

you can take twice the amount of money that it has taken this legislature to raise since it has been here from day one, then there is something wrong. People are spending too much money or maybe we are having all sorts of new needs that never existed before but I don't believe that.

The time has come for us to start tightening our belt, to prepare to start paying the price for what has been happening in Washington — for overspending, for overextending ourselves in areas that we simply could not afford to pay for. Everyone knows that, the deficit's out of control, it's got to be dealt with, we went too far. Now we have to pay the price.

In my mind, a responsible action on the part of the members of this body and in every state in this country would be to try and prepare for that time, leave money aside, not the \$5.5 or the \$5.8 or whatever it is in the rainy day fund. I am talking about serious money to deal with serious problems and I think it is going to be a very interesting time to observe, either as a member or as a spectator, which ever the case may be and I think that when the time comes, the public is going to be really interested to see whether or not this body will have done something to prepare for that time or whether or not we will take our usual course of action and say — folks, we are out of money, we need money, guess where we are going to get it?

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Some people have expressed surprise that I voted against the University package the other day. It is not very often that I find myself on the same side with Representative Baker, Representative Jackson and Representative Zirkilton. In fact, it makes me very nervous. I think I should explain why because I think I come to this position from a very different perspective.

My first link with the University system was some twenty years ago when I was a representative for then Governor-elect Curtis on a mission that concerned a group of federal officials coming to the state to see if they would locate a major oceanographic facility in the State of Maine. After a couple of days, one of the things I heard that really shocked me was that Maine does not stand a chance for this particular type of facility because you do not have any graduate facilities in the most populous areas in the state. That theme was repeated as I worked with the governor's staff.

One day I sat absolutely open-mouthed at a meeting between a group of officials from Orono and a group of officials from what is now the University of Southern Maine. The people from Orono and these are the exact words that they used — "we are the haves, and you are the have nots and you will never have graduate facilities in the southern part of the state as long as we have anything to say about it."

I have been here when we tried to get a medical school for the University of Maine, it would have served the rural parts of the state. Other faculty members from various campuses fought against that because they did not want a new facility that they felt might take away from what they had. But I believe that there has been some progress made since we started this super university and therefore, I genuinely was appalled by the Visiting Committee's Report. I felt that it was turning the clock back twenty years to a time when that "have and have not"

type of philosophy was in effect.

I noticed in an article from the alumni magazine in Orono headlined, "Restoring Orono to Eminence" — note the word; not restoring Orono to excellence but to eminence, which seems to mean, doing something at someone else's expense and that has concerned me greatly. As you know, I come from York County. York County basically does not get anything from the University system except for a few outlying courses that we have in Sanford and Biddeford.

What are we to get out of all of this money that is going to be put into the University system? The only thing that I and others who have discussed this problem could conclude is that we need the University of Southern Maine to be the best possible University and have the best ability to deal in the modern age with the needs of the industries in the area because that will help us. I am very much aware of this because I am a member of the New England Board of Higher Education representing this State of Maine, we put out a booklet called "A Threat to Excellence" which detailed the connection between a higher education system and the economy and how that higher education system moves the economy.

One of the symbols of the fight that is still going on in this still, "have-have not" philosophy, is the question of whether there will be an engineering program at the University of Southern Maine. After talking with the acting chancellor and to the President of the Board of Trustees, I received assurances that one, there would be an engineering program at the University of Southern Maine; two, even though it was supposedly to be run by Orono, it would be run in a fair fashion so that it would not be programmed to fail. I wanted to put those assurances into the Record now, but when I did want to put some language into one of the education bills to assure this, I ran into a brick wall which made me feel that perhaps, while the message I got from the administration and the Board of Trustees that Southern Maine would not be overlooked, perhaps it has not reached all the way up to the campus and to their legislators.

My opposition vote was in part against the taxing mechanism but I feel that I could have overcome that if I was convinced that the outdated "have-have not" mentality had completely disappeared, but the talk of eminence and flagship and other code words has still got me very nervous.

It has been said, again and again, that the money we are paying today is a down payment, and I have to ask, a down payment on what? Is it a down payment on an ego trip for a single institution or is it a down payment for a system of higher education that will serve every part of the state? And because I don't have a clear answer at this moment to that, I am going to vote no, not because of what I have to characterize as the tired, negative, conservative of arguments of those gentlemen with whom I am very uncomfortably allied with at the moment.

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

Representative BOTT: Mr. Speaker, Men and Women of the House: I was all set to let the partisan phrase mongers shoot it out but for two statements that were raised by my friends, the gentleman from Orrington and the gentleman from LaGrange — I believe they are well meaning in their concerns but I feel that the issues that they raised lack historical perspective and fail to take into account actions

that this legislature has taken in terms of providing for accountability as to where this initial down payment will be spent.

We set up the super university system back in the seventies so that we could remove the university, the academia from partisan politics, from pork barrel politics. We set up a Board of Trustees and, in a sense, gave them the money and then called upon them to utilize their good judgment acting with the presidents of the various institutions in determining where the money would be spent. We got it out of the political arena but somehow the system got out of wack.

In joining other representatives from my area and other areas around the state, I was one of the most vocal opponents of the Board of Trustees and the priorities that they were setting in terms of long range planning, in terms of accountability, and in terms of the decisions they made as to where the money should go in regard to the various fine institutions across the State of Maine but, because of this problem, the legislature was drawn into it.

A flurry of bills was presented to alter the boards behavior and I believe a lot of those passed can have major effects. One of them is the annual report that the trustees will now give us. There is a turnover on the Board of Trustees, we had a Visiting Committee that was removed from the process, take a hard look at the system without a biased perspective and came back with a set of recommendations, a set of priorities, if you will.

What some of the gentlemen here are failing to realize is that, over the past couple of months, we have had a careful review of those priorities, we have not only had it by the executive department but we have had it by the Education Committee. The Education Committee, very carefully, went over the priorities in that book. You can take the priorities and you can rattle them off here in the House Chamber, and because we are not academicians, some of them might seem frivolous.

When you are dealing with education, many times you are dealing with intangibles. The Education Committee unanimously supported these priorities in talking with the members of the various campuses. Then the arenas changed, it changed to the Appropriations Committee. It was a Unanimous Report out of that Appropriations Committee as to the priorities. As to accountability, those statements were entered into the Record. I can remember members of my party and members of the majority party asking questions as to whether, indeed, the money would go to the areas that were laid out in the report. That commitment was made -- if somehow that commitment isn't followed up on, then I will be the first to call for accountability and I am sure that there will be a stampede to impose legislation that would somehow structure the behavior of the Board of Trustees. I am an optimist and I feel that the pledge has been made for accountability. I think an accountable case has been made.

I supported the minority tax package. That package didn't have the votes, it didn't come to a vote because we voted on Report A. Now I am standing before you and I am urging you support the entire package because I think, even with the drawbacks with this tax package, I think the alternative of not funding the University at this time, could have a devastating impact on the programs that we have, the quality that we have with our institutions across the

State of Maine.

It means a commitment to business, it means a commitment to development. I think that the eyes of the state are upon us right now ladies and gentlemen, and if we turn this down right now, we are not just going to have an impact on the programs that we have, the programs that we are proud of, but we are also going to have a devastating impact on the image that the University system holds throughout the state.

Right now, because of the incredible tuition increases that have brought us to be up in the top five in the nation, those young people are not going to go to the university, not just because they cannot afford to go to the university but because the legislature has been brought to a situation where it has been made quite clear across this state that we are in desperate straits and we need this funding and somehow this legislature turned it down. That is a bad message.

With the drawbacks on the tax proposal that is tied to this, I am voting in favor of this package and I hope you will and send a strong message out there that we are proud of the institutions that we have now and we are confident in their ability to bring us into the future.

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

Representative BOST: Mr. Speaker, Men and Women of the House: This debate seems to be splintering off in several directions so I, in turn, have several responses.

First of all, as most of you are undoubtedly aware, I have been very close to the University and the university budget process since I entered the legislature four years ago. I have been involved in both successful and unsuccessful funding proposals. Through that, I believe I have acquired a working knowledge of the university budget and, as most of you know, I have emerged as a frequent critic of the manner in which the budget has been arrived at, requested, lobbied and implemented. I have been compelled, as many in this chamber are compelled, by one goal -- that being a University of Maine system that does not take a back seat to its counterparts anywhere in the Northeast; that strives for excellence at every level; that is able to properly convey to its own critical function to Maine's economy and to the betterment of life for the people throughout this state; a university which maintains open and constructive dialogue with the legislature, and lastly, a university which is properly funded.

I believe that we are at an historic juncture with regard the University of Maine today, a point at which past problems and struggles can be put behind us, a point at which we can mutually come to the aid of public higher education and feel good about doing so.

From my perspective as a member of the Education Committee, there have been some dramatic changes which have taken place, not only within the Board of Trustees, (and I have been watching them very closely, ladies and gentlemen) but within the educational community as a result of the Visiting Committee Report. Back in my hometown, the Visiting Committee Report has been literally the first breath of fresh air that we have seen in years of declining funds and declining expectations. That does not only apply to my campus at Orono but to campuses throughout the system from Portland to Fort Kent. The report recognized the importance that each

individual campus has to the integrity of its particular region, the value of linking strengths and resources as well as maintaining the character and mission of each campus.

There were statements made earlier in the debate that there are no goals. This is simply false. There were statements made that there is no accountability and that is simply false. I have two examples, first, this report which was just distributed on some of our desks, -- I hope all of our desks -- from the Joint Standing Committee on Education, comments on the Board of Trustees response to the Visiting Committee report on the University of Maine from the Education Committee. We spent weeks on this document, it is a thorough and well thought out example of accountability.

A second example of accountability -- I refer to current statute which states in two sections -- first, the Board of Trustees or their Board representatives shall appear annually in January before the Joint Standing Committee on Education to report on efforts by the University of Maine system to comply with state policy on higher education established by Section 10902.

Secondly, 10902B refers to the Chancellor of the University of Maine system addressing a joint session of the Legislature, to address the legislature on the state of the University system and other such matters as the Chancellor desires to bring to the legislature's attention.

Earlier in the debate, Mr. Baker questioned money to enhance national prominence. I hope he is not serious, that is a definite, definite need, as was so eloquently pointed out in the Visiting Committee Report. Does Mr. Baker believe that we have no accountability through the Board of Trustees? Perhaps a year ago I might have said yes; today I say no. I believe there are those who have voted against all funding proposals and the final engrossment vote and they would have done so for any reason. It doesn't surprise me that they plan to oppose the final package today. It particularly surprises me among some of my colleagues from the Bangor/Orono area, knowing what this vote means to higher education and to that region. I think it is a mistake.

The Education Committee and every member of that committee in this body here today can attest to this -- we have been inundated as a committee with information and data, planning priorities, funding priorities, all from the board, from the Chancellors office and from each individual president, ad nauseam, over and over and over again. When we needed more information, we called them in again. I think the trustees are capable of being trusted with the money.

To my good friend Mr. Rolde, I must say that I too regret his position on this issue because I believe most of those involved, including the Board of Trustees and the presidents, the Governor and I believe most in this legislature, know that the Visiting Committee Report transcended regionalism. It does not enhance it in any way, shape or form. I cannot believe that it is being misinterpreted in this manner.

Any references to Orono being on an ego trip, I believe, is irresponsible, particularly in light of the constant, merciless drain on Orono's resources over the past 10 to 12 years.

With regard to Representative Zirnkilton's charge that we are being set up, I must respond. All of the

lofty statements placed on campaign brochures, and I can see them all now with regard to how education is our best investment, how we must place a high priority, -- no, the highest priority, -- on the education of our young people, but when it comes time to pay for it, there are those that begin looking over their shoulder.

I believe that the package before us is where the rhetoric and the commitment meet. I am proud to support it today.

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

Representative ROBERTS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make two or three comments. In the first place, I am supporting this bill. I oppose the amendment by Representative Baker, although I can sympathize with his feeling for it because we debated in the Education Committee for a long time how, much we should go into detail on university affairs.

I believe this bill has been studied more carefully than has been done for many years. I do not see the necessity at this point.

I would like to correct certain statements made, however, in the recent debate.

Representative Rolde said that the Visiting Committee Report tried to turn back the events to 20 years.

Mr. Bost said it was like a breath of fresh air on the campuses. I guess I will say they are both right.

Part of the report was a study in nostalgia, trying to turn the clock back 20 years. Part of it had some very good flowered looking ideas. The trustees threw out most of the nostalgia kick and left in, it seems to me, the better part of that report which this bill reflects.

I would like for the Record, to make it plain that it seems to me that Representative Bost gave to the Education Committee a larger part in this bill than we actually had. We heard about the bill, it was worked out by the trustees, the Governor and by the Visiting Committee. We had the presidents, the trustees, come to us and examine what they were saying about it and to satisfy us, they agreed. We did not play the key part, which Representative Bost suggests.

I guess what I am trying to say is I favor the appropriation but I would agree heartedly with Representative Rolde when he says a lot of the Visiting Committee Report is trying to roll back the clock 20 years and I am very pleased the trustees and the Education Committee in their bill on renaming the university system threw out most of the worst of that nostalgia. Part of what is left here, I believe, is a more positive part of that report and I will favor it.

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

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address just a couple of comments that have been made.

Representative Baker came before our committee and testified, neither for nor against the bill. I, quite frankly, have some sympathy for what he was saying about the accountability. I think that when you are spending taxpayers dollars and when you are spending large amounts of dollars, you want some

accountability in the system.

This is my fourth year on the Appropriations Committee and this is my sixth year in the Legislature and I have to tell you I have never seen more scrutiny over a budget as we have seen over this budget this time around. There is more accountability, there is scrutiny, the Chancellors Office, the Board of Trustees, I think, have been terribly accountable and accessible to answer any questions. We have never ever seen, because we do not line item budget the university system, we have never ever seen a printout sheet as you people received. One of the things that we always complained about is, we don't line item budget, we are always in the dark, we want to know what is going on. Now we know what is going on and we find this objection. Well, you can't have it both ways.

I really do think that this has been handled in a responsible way. I think if there was an error, it probably was too much scrutiny at this point because we are Representatives who represent a particular district. If you have a campus in your system and you see that you are only getting one and half percent of the money, then obviously you want to fight for your turf. If there was a problem, I think that was the problem. There may have been just too much scrutiny in the system.

Mr. Baker also mentioned the million dollars for enhancing the excellence in prominence of certain programs. I think if you just look at that by itself you get a little bit nervous but you have to understand that there are certain nationally recognized and prominent programs in the system that they have wanted to put funds into to increase or continue that enhancement and prominence. One of them is a research institute located in Antarctica and is a nationally known institute that they are going to put more money into.

The other one is the chemical engineering program which we have all heard about and we all understand is a good program but has declined because of funding and they are going to put money into this program. The forestry program which we all know is a nationally prominent program. There are several others. So, it isn't just a \$1 million slush fund, this money is earmarked for those specific programs.

I think that we would agree that that is where we want our money to go, to bring back that prominence that we once had.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: We have heard much rhetoric here this afternoon about accountability, responsibility, goals, aims and on and on.

I believe Representative Lisnik hit the nail on the head when he stated in his remarks that the committee has scrutinized every item that has come before it, more so this session than any other session that he has ever served on and so have I. It is only my eighth term on the Appropriations Committee.

The point that Mr. Baker brings up about accountability and Mr. Hichborn agrees and we also agree on the Appropriations Committee -- what I think we are all forgetting is the fact that the University is a Land Grant College established by federal laws. We cannot tell them where to spend their money. We simply give them a grant and they spend it as they see fit. They are supposed to be unfettered,

unrestricted and reaching for the highest goals to educate the youngsters of the State of Maine. This is truly the aim of the University.

If we are going to demand accountability, the only way to demand accountability is by line item budgeting. To do that, we are going to have to change some laws, including some federal laws, before we can even hope to do that. We were very much concerned about that because I asked the trustees if they were going to live up to the commitment of the Visiting Committee and the committee was assured that the trustees would live up to the Visiting Committee's recommendation. They also assured the Governor and he told us in his State of the State message that they had agreed to live up to the commitment as recommended by the Visiting Committee. I would hope that we would follow the Governor's lead and the Appropriations Committees lead, which was a unanimous, bipartisan report and support this L.D.

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

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: While I do just want to comment on some of the concerns of the Representative from Orrington and the Representative from Bar Harbor, I would first like to comment on a remark made by the Representative from York using, in my judgment, poorly and to his advantage, the word eminence and in my judgment, misleading the people here.

The suggestion was that somehow the word eminence means taking advantage. In fact, the word eminence means something that is prominent, something in a lofty position. That, in fact, is what this bill is all about. This bill is all about bringing the University of Maine back to its position of pre-eminence, its lofty position, its prominent position that it ought to have, not however as is being suggested, at the expense of any other campus within the system. In fact, as has been said here several times but perhaps members of the Education Committee can say it better than anyone, we have gone over and over with the presidents, with the Board of Trustees, with the acting Chancellor and each of us on that committee, on both sides of the aisle, have asked over and over again about the accountability. In our judgment, the accountability will be there.

Before this matter came to us, nobody in his or her right mind can possibly think that the Board of Trustees or anybody else involved with the University of Maine, whether it is the University of Maine at Orono or the University campuses throughout, that that accountability isn't going to be there, just isn't paying attention.

Getting to the accountability -- I absolutely assure the Representative from Lagrange, and I know he spoke and his vote now is wavering in regard to the Representative from Orrington's remarks, I assure you with all the sincerity that I have that I am convinced that the accountability will be there and what we all want to happen, not only at Orono, but throughout the system, will happen.

It is really bothersome to me to hear any representative on any side of this isle suggest that we should not vote for this bill because, in my judgment, out of concern for a bond issue which may be coming up later on, we are not talking about that, we are talking about this item.

I don't know how many of you know it or not but one of the charges that have been made to the

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University of Southern Maine and through its President, Robert Woodbury, that they will almost immediately begin assessing the problems and the needs of the people in the area of York County and Lewiston/Auburn and even in Augusta. President Bob Woodbury is just chomping at the bit to get going on that. In my judgment and I do believe that, in fact, those needs and those problems are going to be assessed.

Nobody in this House, (I say this as sincerely as I can) ought to vote against this bill because they don't think the accountability is going to be there. Everything we have seen and everything we have heard is moving the University of Maine and the entire system in the direction it ought to be and that is up. If you don't want that to happen, then you ought to vote against this bill. But if you really believe that it is happening, then you ought to support the bill.

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

Representative BROWN: Mr. Speaker, Men and Women of the House: I am getting sick and tired of the pettiness that I have heard all over the floor of the House and in every region of the state. I am also tired of all the amendments that are being thrown around to help one campus or another campus and everybody seems to be so jealous of everything in this education bill. If it continues to go on the way it is, everything will be blown apart.

This \$15 million is the recommendation of the Visiting Committee for all campuses. All the presidents have been before the Education Committee many, many times and they have all been happy and in agreement to what has been proposed for their particular campus. If we are serious about education in the State of Maine, now is the time to do something about it.

I would hope you would vote for this recommendation before us today.

By law, the Chancellor will be before the legislature every year. I am sure there will be some accountability to that.

A roll call has been ordered.

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

96 having voted in the affirmative and 50 in the negative with 5 being absent, the Bill was passed to be enacted, signed by the Speaker and Sent to the Senate.

(See Roll Call No. 315)

The following item appearing on Supplement No. 36 was taken up out of order by unanimous consent:

COMMUNICATIONS

The following Communication:

STATE OF MAINE
ONE HUNDRED AND TWELFTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

The Honorable John L. Martin
Speaker of the House
112th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Appropriations and Financial Affairs during the Second Regular Session of the 112th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	62
Unanimous reports	56
Leave to Withdraw	21
Ought to Pass	6
Ought Not to Pass	5
Ought to Pass as Amended	16
Ought to Pass in New Draft	8
Divided reports	5
Carry Over (L.D. 2373) - Approved by Joint Order H.P. 1699	1

Respectfully submitted,

S/Michael D. Pearson S/Donald V. Carter
Senate Chair House Chair

Was read and ordered placed on file.

The following item appearing on Supplement No. 31 was taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill "An Act to Create the Family Division of the District Court and to Establish Full-time, Appointed Probate Judges" (H.P. 1504) (L.D. 2119) on which the Bill and accompanying papers were indefinitely postponed in the House on April 14, 1986.

Came from the Senate with the Majority "Ought to Pass" in New Draft under New Title Bill "An Act to Consolidate Family Cases in a Family Court within the District Court and to Establish Full-time, Appointed Probate Judges" (H.P. 1704) (L.D. 2402) Report of the Committee on Judiciary read and accepted and the New Draft passed to be engrossed.

On motion of Representative Carrier of Westbrook, the House voted to adhere.

Representative Law of Dover-Foxcroft was granted unanimous consent to address the House.

Representative LAW: Mr. Speaker, on Roll Call 313, I would like to be recorded as yea. That is the one with the ATV's.

The SPEAKER: The Record will show that the Representative from Dover-Foxcroft, Representative

Law, was in his seat at the time and that the vote did not record. If he had been recorded on that vote, he would have been voting yea.

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. 37 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act Relating to Staff Retention in Community-based Residential Facilities for Persons with Mental Retardation (S.P. 757) (L.D. 1921) (H. "A" H-705 to C. "A" S-472)

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

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: An Act Relating to the Administration of Preventable Disease Programs and the Bureau of Health (H.P. 1651) (L.D. 2329) (C. "A" H-701) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Nelson of Portland, under suspension of the rules, the House reconsidered its action where by L.D. 2329 was passed to be engrossed.

The same Representative moved that the rules be suspended for the purposes of further reconsideration.

The SPEAKER: There is objection to the motion.

The bill was passed to be engrossed as amended.

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

The following item appearing on Supplement No. 34 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Confirm and Recognize Public Trust Rights in Intertidal Land (S.P. 950) (L.D. 2380) (H. "A" H-730)

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

Representative Cahill of Woolwich requested a roll call on enactment.

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

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

The SPEAKER: The pending question before the House is passage to be enacted of L.D. 2380. Those in favor will vote yes; those opposed will vote no.

91 having voted in the affirmative and 51 in the negative with 9 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(See Roll Call No. 316)

The following item appearing on Supplement No. 38 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Strengthen State-local Cooperation through Regional Councils (H.P. 837) (L.D. 1181) (S. "B" S-501 to C. "A" H-558)

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

The following item appearing on Supplement No. 39 was taken up by unanimous consent:

PASSED TO BE ENACTED

An Act to Expand and Continue Alcoholism Treatment, Education, Prevention and Research Programs (H.P. 951) (L.D. 1370) (S. "H" S-502 to C. "A" H-532)

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

The following item appearing on Supplement No. 44 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Increase the School Bus Purchase Limit (S.P. 817) (L.D. 2062) (S. "A" S-505)

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

The following item appearing on Supplement No. 45 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Establish the Maine State Parks Development Fund (H.P. 1483) (L.D. 2095) (S. "A" S-506 to C. "A" H-605)

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

The following item appearing on Supplement No. 46 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Provide Funding for Mental Health Programs (H.P. 1524) (L.D. 2144) (S. "A" S-507)

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

The following item appearing on Supplement No. 47 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Phase Out the Sales and Use Tax on Energy Used in Manufacturing (H.P. 1555) (L.D. 2193) (S. "A" S-508)

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

The following item appearing on Supplement No. 48 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act Concerning Transitional Services for Handicapped Persons Beyond School Age (H.P. 1592) (L.D. 2245) (S. "A" S-509 to C. "A" H-694)

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

The following item appearing on Supplement No. 49 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act Relating to Medicaid Fees for Pharmacies (H.P. 1611) (L.D. 2268) (S. "A" S-510)

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

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

The following item appearing on Supplement No. 40 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Expand the Maine Conservation Corps (H.P. 1251) (L.D. 1761) (S. "A" S-460 and S. "B" S-503 to C. "A" H-524)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and 12 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

At Ease

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Majority Report of the Committee on Taxation on Bill "An Act to Make Certain Revisions in the Maine Tax Laws and Appropriations from the General Fund" (Emergency) (H.P. 1638) (L.D. 2310) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1700) (L.D. 2393) and Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Make Changes in the Maine Tax Laws and to Provide for Appropriations from the General Fund" (Emergency) (H.P. 1701) (L.D. 2394) which was tabled earlier in the day and later today assigned pending acceptance of either report.

On motion of Representative Cashman of Old Town, the bill and all accompanying papers were indefinitely postponed and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Amend the Insanity Defense and Certain Procedures Relating to Committed Insanity Acquittees (H.P. 1702) (L.D. 2397) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: An Act to Change the Name of the University of Maine (H.P. 1694) (L.D. 2385) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

Representative ROBERTS: Mr. Speaker, Men and Women of the House: I would like to comment very briefly on this bill as it appears. It is very different from the bill which came to the Education Committee. In the bill that we received, many things were incorporated which were of very dubious value in the eyes of some members of the committee, notably there was the possibility of seeming to change the names of smaller campuses by some phrases that were in there.

The committee has gone on Record by a vote of thirteen to nothing as opposing the changing of those other campus names. Throughout the rest of the report, a number of parts were written in which reflected the Visiting Committee's philosophy, some of which seemed appropriate to some. Anyway, there was much disagreement and in the end we decided the only thing we could do was to throw the whole thing out and start over again.

In this bill as you have it, it merely changes the name of the University of Maine to the University of Maine System in order to allow the campus at Orono to become the University of Maine. I believe there is only one possible campus change involved here. I think we should be aware that, on line three, apparently the School of Law becomes the University of Maine System's School of Law. That is the only change I see it involves here, the rest merely changes the system name so that Orono can resume the name, University of Maine.

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

Representative MCCOLLISTER: Mr. Speaker, Men and Women of the House: I would like to address a question to someone -- how much is this name change going to cost the taxpayers?

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

The Chair recognizes the Representative from Orono, Representative Bost.

Representative BOST: Mr. Speaker, Men and Women of the House: There is no fiscal note on this bill. Any costs incurred will be handled internally.

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

The following item appearing on Supplement No. 42 was taken up out of order by unanimous consent:

FINALLY PASSED

Emergency Measure

RESOLVE, Creating a Maine Commission to Commemorate the Bicentennial of the United States Constitution (S.P. 813) (L.D. 2045) (S. "A" S-504 to C. "A" S-443)

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. 118 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 50 was taken up out of order by unanimous consent:

FINALLY PASSED

Emergency Measure

RESOLVE, to Establish a Maine Commission to Examine Chemical Testing of Employees (S.P. 934) (L.D. 2343) (S. "A" S-475; S. "B" S-511)

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. 111 voted in favor of the same and 8 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 51 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Protect the Public Health in Relation to Acquired Immune Deficiency Syndrome (S.P. 943) (L.D. 2367) (H. "C" H-695; S. "A" S-512)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of the same and 17 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 53 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Increase the Maine Child Care Credit Under the State Income Tax (H.P. 1310) (L.D. 1826) (S. "B" S-514 to C. "A" H-562)

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 bring this item to your attention in case you have not had a chance to look at the amendment that has been placed on the bill from the other body, I would like to bring it to your attention. The original bill called for over a two million dollar cost to the General Fund to increase the child care credit.

Because of lack of funds, the Appropriations Committee and the leadership agreed to phase in this child care credit similar to a couple of other bills that we have had this year.

I guess that the only comment that I would like to make is that the initial cost in our next fiscal year is \$70,000. The year after that it becomes \$376,000 and the year after that it becomes \$807,000. For \$70,000 this year, we buy a \$1 million unfunded liability in the next biennial budget and, for those of us who may be coming back here, we may have to deal with that similar to the same problem that we dealt with when we talked about eliminating the sales tax on electric generating facilities.

I am concerned about what is happening. The legislature is choosing to phase in things that have a tremendous cost and a tremendous fiscal impact to our budget in the hopes of getting it passed. That concerns me that we don't have the money to pass it now and we ought not to do it. I think the magnitude of this deserves your attention and I am not going to ask for a motion on it because I know who sponsored the bill and I know that it is going to pass. But when I come back here, hopefully, I would just remind the House that we have done it cognizantly and that there may be some additional funds needed next time to pay for these things.

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

The following item appearing on Supplement No. 54 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide Medicaid Coverage for Mental Health Services for Children in Certain Hospital Facilities (H.P. 1610) (L.D. 2267) (S. "A" S-517)

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. 120 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 55 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

An Act to Insure the Rights of the Staff of the Projects Serving Preschool Handicapped Children and Other Preschool Teachers Employed by Public Schools to Receive Maine State Retirement (H.P. 1662) (L.D. 2340) (S. "B" S-518)

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. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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 Relating to Commercial Vehicles (S.P. 914) (L.D. 2282) (C. "A" S-484) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Theriault of Fort Kent, under suspension of the rules, the House reconsidered its action whereby L.D. 2282 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-484) was adopted.

The same Representative offered House Amendment "A" (H-733) to Committee Amendment "A" (S-484) and moved its adoption.

House Amendment "A" (H-733) to Committee Amendment "A" (S-484) was read by the Clerk.

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

Representative THERIAULT: Mr. Speaker, Members of the House: The purpose of this amendment is to make necessary technical changes to the bill.

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

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

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

By unanimous consent, was ordered sent forthwith.

The following item appearing on Supplement No. 57 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

Bill "An Act to Create a Paralytic Shellfish Poison Monitoring Program" (H.P. 1307) (L.D. 1823) which was passed to be engrossed as amended by House Amendment "A" (H-725) in the House on April 14, 1986.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-528) in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 41 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Establish a Commission to Examine the Availability, Quality and Delivery of Services Provided to Children with Special Needs (H.P. 1652) (L.D. 2330) which was Passed to be Enacted in the House on April 14, 1986. (Having previously been passed to be Engrossed as amended by House Amendment "B" (H-692)

Came from the Senate Passed to be Engrossed as amended by House Amendment "B" (H-692) as amended by Senate Amendment "A" (S-515) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 52 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Promote Intensive Spruce-fir Management (H.P. 1468) (L.D. 2070) (S. "C" S-513)

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

The following item appearing on Supplement No. 58 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Protect the Public Health and Safety of Residents in Boarding Care Facilities (S.P. 959) (L.D. 2401)

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

The following item appearing on Supplement No. 56 was taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill "An Act Relating to the Administration of Preventable Disease Programs and the Bureau of Health" (H.P. 1651) (L.D. 2329) (C. "A" H-701) which was passed to be enacted in the House on April 14, 1986.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-701) as amended by Senate Amendment "A" (S-529) thereto in non-concurrence.

The House voted to recede and concur.

On motion of Representative Soucy of Kittery, Adjourned until April 15, 1986 at ten o'clock in the morning.
