

# 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  
Index

SECOND SPECIAL SESSION  
May 28 - May 30, 1986  
Index

THIRD CONFIRMATION SESSION  
July 15, 1986  
Index

FOURTH CONFIRMATION SESSION  
August 29, 1986  
Index

THIRD SPECIAL SESSION  
October 17, 1986  
Index

FIFTH CONFIRMATION SESSION  
November 24, 1986  
Index

The House was called to order by the Speaker.  
Prayer by Reverend Bruce Hudson, Highland Avenue  
United Methodist Church, Gardiner.  
The Journal of May 28, 1986 was read and approved.

#### ORDERS

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

ORDERED, that Representative Gerald A. Hillock of Gorham be excused May 28 for the duration of the Second Special Session for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Weston R. Sherburne of Dexter be excused May 28 for the duration of the Second Special Session for personal reasons.

Was read and passed.

On motion of Representative DIAMOND of Bangor, the following Joint Resolution: (H.P. 1747) (Cosponsors: Representatives DUFFY of Bangor, WALKER of Norway, and Senator ERWIN of Oxford)

#### JOINT RESOLUTION COMMEMORATING THE 350TH ANNIVERSARY OF THE NATIONAL GUARD

WHEREAS, the National Guard is an important link in an unique American tradition of the citizen-soldier and the militia; the Guard is older than our nation, and boasts the longest continuous history of any military organization in the United States; and

WHEREAS, the federal mission of the National Guard is to blend with the United States military at a moment's notice in time of war or national emergency; Guardsmen played an important role in the Civil War, War of 1812, Spanish-American War, World War I and World War II, the Korean conflict and most recently in Southeast Asia; and

WHEREAS, during the War of Independence, Maine furnished about 6,000 officers and men. The state mission of the National Guard is to help protect life and property and to preserve peace, order and public safety; and

WHEREAS, the members of the National Guard have been able to respond quickly and efficiently to local emergencies, countless lives and millions of dollars of property and equipment have been saved; and

WHEREAS, the National Guard also provides assistance to local areas through its programs of community service, which gain an extra dimension since the Guardsmen are part of the community they serve; and

WHEREAS, Maine Guardsmen and the State of Maine may indeed be proud of the history of their National Guard units; their achievements of the Maine National Guard are truly a great heritage and provide a source of pride in membership which is inherited by each of

the thousands of Maine National Guardsmen; now, therefore, be it

RESOLVED: That copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States, Ronald W. Reagan, as Commander of the United States Armed Forces; to the Governor of the State of Maine, Joseph E. Brennan, as Commander-in-Chief of the Maine military forces; to the Members of the Maine Congressional Delegation; and to the Adjutant General of Maine.

Was read and adopted and sent up for concurrence.

#### REPORTS OF COMMITTEES

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

Representative PERRY from the Committee on Legal Affairs on Bill "An Act to Amend the Liquor Laws to Allow a Vessel Corporation Owned by a Certificate Holder to Apply for a Liquor License" (H.P. 1727) (L.D. 2415) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide for Liquor Licensing of Cruise Ships" (Emergency) (H.P. 1746) (L.D. 2432)

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.

#### 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:

An Act Making Appropriations from the General Fund and Changing Certain Provisions of Law Necessary for the Operation of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987 (Emergency) (H.P. 1741) (L.D. 2428)

TABLED - May 28, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Carter of Winslow, recommitted to the Committee On Appropriations and Financial Affairs in non-concurrence and sent up for concurrence.

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

#### REPORTS OF COMMITTEES

##### Unanimous Leave to Withdraw

Representative WEYMOUTH from the Committee on Utilities on Bill "An Act to Amend the Charter of the Passamaquoddy Water District" (Emergency) (H.P. 1631) (L.D. 2299) reporting "Leave to Withdraw"

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

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

CONSENT CALENDAR

FIRST DAY

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

(H.P. 1639) (L.D. 2311) Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$7,700,000 for Various Projects at the University of Maine" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "C" (H-753)

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

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

Committee Amendment "C" (H-753) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

(At Ease)

The House was called to order by the Speaker.

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

(At Ease to Gong)

The House was called to order by the Speaker.

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

PAPER FROM THE SENATE

The following Joint Order: (S.P. 984)

ORDERED, the House concurring, that Bill "An Act

Relating to Commercial Vehicles," S.P. 914, L.D. 2282, and all its accompanying papers, be recalled from the Governor's desk to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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

ORDERS OF THE DAY

BILLS RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1744)

RESOLVE, to Establish a Commission to Examine Problems of Tort Litigation and Liability Insurance in Maine (Emergency) (H.P. 1624) (L.D. 2289) (H. "B" H-655)

On motion of Representative Priest of Brunswick, under suspension of the rules, the House reconsidered its action whereby L.D. 2289 was passed to be enacted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 2289 was passed to be engrossed as amended.

On further motion of the Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "B" (H-655) was adopted.

Representative Paradis of Augusta offered House Amendment "A" (H-754) to House Amendment "B" (H-655) and moved its adoption.

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

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

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

(Pursuant to Joint Order - House Paper 1745)

An Act Establishing a Commission to Implement Computerization of Criminal History Record Information (Emergency) (H.P. 1627) (L.D. 2295) (S. "A" S-454 and H. "B" H-660)

On motion of Representative Paradis of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 2295 was passed to be enacted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 2295 was passed to be engrossed as amended.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" (S-454) was adopted.

The same Representative offered House Amendment "A" (H-745) to Senate Amendment "A" (S-454) and moved its adoption.

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

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

The Bill was passed to be engrossed as amended by House Amendment "B" (H-660) and Senate Amendment "A" (S-454) as amended by House Amendment "A" (H-745) thereto 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.

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$7,700,000 for Various Projects at the University of Maine" (H.P. 1639) (L.D. 2311) (C. "C" H-753)

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

On motion of Representative Pouliot of Lewiston, the House reconsidered its action whereby Committee Amendment "C" (H-753) was adopted.

The same Representative offered House Amendment "A" (H-757) to Committee Amendment "C" (H-753) and moved its adoption.

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

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I rise today with mixed emotions. My emotions are mixed because, on one hand I am about to say some things that will please the people of my district, their children and their children's children; on the other hand, I am forced to rise today to say things that will disappoint many people in this chamber.

The message that I have to deliver today is not harsh nor bitter, it is simply factual. That message is, when it comes to education and the future of this great state, my dream will not be realized this year. You will all recall the debate we had in this body six weeks ago on the University of Maine in Lewiston-Auburn bond issue. Many of us from the Androscoggin County delegation rose to tell you that funding of the University in Lewiston was part of a dream. We told you of our recent economic troubles, we told you of a history of an unfunding of education system there despite the fact that we are a heavily populated area. Despite our pleas, the vote was against us. We took our loss in vain, held our heads high and congratulated the winners.

The winners of that vote, as you know, won the right to take the bond issue to the voters in November. To show my personal good faith and sportsmanship, I sent letters to all of you last

month. The letters thanked you for your consideration and asked for you to support any votes taken during this special session.

Since that letter, I have learned that there is probably little chance of success for the Lewiston funding this session. I accept that reality. My people do not accept it as easily. However, the comments received while home in April and May have been harsh. My people want to know why an area with as many people as our area has does not have top flight, public higher education. My people also want to know why the trustees voted, three years ago, to support the bond referendum but yet, a week or two ago, voted 14 to 1 against it. Why? My people want to know why, given the massive tax support we give the state and the University of Maine system, we don't have a bonafide campus? Further, they want to know why our sons and daughters cannot go to a first-class University of Maine campus in Lewiston but the Chancellor can make \$114,000 a year plus a \$1,000 a month housing allowance?

The total University of Maine budget, as I understand it, is approximately close to \$173.6 million dollars. Androscoggin County pays to the University of Maine budget, through its sales taxes and corporate taxes, approximately 7.5 to 8 percent. In return, we receive three-tenths of one percent for the Lewiston-Auburn Center, which is \$591,000. There was a cash flow of over \$1 million that goes through the Lewiston-Auburn Center. My people back home have a hard time to understand this. I feel that the trustees said to Lewiston-Auburn, "we don't intend to provide the facilities for you and your children to get an education necessary to earn a decent living but we do expect you to pay for a salary increase to the Chancellor and to continue support of the 7 campuses."

It is the same old story, over and over again, everyone says that Lewiston-Auburn deserves more services from the University system but somehow, the money can never be found.

My city has a motto that was developed or taken under the administration of Paul Dionne. That slogan was, "I believe."

We have heard from a number of state legislators and members of the University of Maine Board of Trustees that now is not the time for a University presence in Lewiston-Auburn. I would ask the members of the state legislature exactly, "when is the appropriate time?" I believe the time is now. With the demand of the general populace for increase in education at all levels, I believe the time is now. With the new resurgence in the University of Maine and the investments made by the State of Maine, with a \$15 million down payment, I believe the time is now.

My people also have a hard time understanding a statement made by a member of the trustees, Mr. Richard Marshall, "there is not enough people in Lewiston and Auburn to pass a bond issue or fail a bond issue." This Fall, I am afraid that my people will vote in a block to defeat the overall package. I do not advocate this bitterness but neither will I try to stop it. It makes sense, I guess. If my people can't realize their dream, many of your people won't realize theirs. The people back home are not happy. They will not stand for it.

Earlier, I described that I tried to be a good sport about these things; unfortunately, my people aren't feeling in a very sports-minded-like mood.

I hope you here today can find the compassion to

support us. We need your help. It has been a very tough issue for me to tangle with, to decide to amend this, because many of you I consider my friends and I know that we will always remain friends but it is just something that has been a dream in my heart for a long, long time. I can't let it go. As many of you have amended bills on the floor, I respect you for it. That is the only place I come from.

Also, as a political person, I have made strong commitments back home to people, political people, to councilors, to mayors, people who have stood by me and helped me out in the dark hours when we had to try to convince our councilors to support in letting the bond issue out. I can't let those strong commitments go unanswered.

In closing, I think I would just like to say that, "no time is the right time, for those without the courage, the leadership, dedication and foresight to be the missionaries for tomorrow. The dream goes on, we shall be back." Thank you.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: Thank you for allowing me and allowing the discussion of this amendment and the ensuing results of this amendment to become a matter of record before this body.

Some of the statements and conclusions of the University of Maine Trustees recently could have been more sensitive and more direct to their given responsibilities in making their report, not a wishy-washy one with no specific, written commitments. We are a rational people, not easily intimidated by insult and threats. We must now take a 'wait and see' attitude. I make this statement from the bottom of my heart, with sincere and grateful appreciation to the legislative process and this legislative body.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is with a heavy heart that I have to move for indefinite postponement of this amendment and I so move.

You will recall that the last time we debated this bill, I not only supported it, I spoke in favor of it. Today, I have to, in good conscience, go against my good friend from Lewiston, Representative Pouliot, although I agree with every word that he said.

The last time that we debated this issue, we utilized three year old figures and the cost was pegged at \$4.4 million, which was incorporated in the bill that was reported out by the committee. However, in the interim, the trustees have done some work and reported back and indicated that that cost was way inadequate and the actual cost would be more in the vicinity of somewhere over \$8 million.

I understand also, although I have not spoken directly with the trustees but some members of the committee have, that one of the top priorities of the trustees is to expand the services in Lewiston and I believe that they are working on a plan that would not cost any more than a net cost of \$1.6 million taking in the tuition cost.

With a heavy heart again, I would hope that you would go along with the motion to indefinitely postpone.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in a unique, unusual position on this issue, to say the least. I serve on the Appropriations Committee, which is where this bill came from back in the Regular Session and, of course, during the Special Session. We all know that in this body and in this process, we often are required or determined for ourselves that we have got to swallow an awful lot in order to achieve our ultimate objectives. I think this is one of those occasions for me.

The gentleman from Lewiston, my friend Mr. Pouliot, who has been a comrade in arms on this issue from day one and we have spent many sleepless nights and hours working on this issue along with many of our other colleagues in the delegation. I want to make it very clear that the gentleman's position and mine don't differ very much with the exception, I guess, of approach. Our objectives are clearly the same so I don't think that we are divided as such.

However, as I said, I do sit on the Appropriations Committee and we did have the task of dealing with this University Bond Issue. As you all know, at the end of last session, our area of legislators made a strong attempt to have this bond issue included in the full package. The reasons, I think, many of you understand but briefly, you ought to recall our efforts spanned some three years, we have evidence and documentation beyond belief in terms of the types of services that are required in that area in this day and age that the University ought to be delivering. We have evidence and documentation regarding cost estimates as to what it would take to provide these services and we have a history of commitments from this legislature and past legislatures, the University Trustees, the University officials -- the issue has been around for awhile. Yet, as my friend from Lewiston, Mr. Pouliot, pointed out, we are asked to wait. I will tell you exactly why. I chose to acquiesce, if you will, and go with the unanimous report out of Appropriations to endorse the \$7.7 million bond issue.

I have said from day one on this issue of University funding and higher education that it is a high priority of mine, not only for my area but for the state. As our state changes economically, as priorities change, as the needs of people out in the work force change, training demands change, higher education is becoming more and more significant in this state's entire economic growth picture. I am a very strong supporter. Those items included in the \$7.7 million bond issue are important and I don't dispute that. The point that we were trying to make and the effort that we were waging is that we are as important. However, as Mr. Pouliot pointed out, our reality is just that, reality. So I took a different course -- since the Trustees came out with their report, speaking to many of those involved in the University system, including the acting Chancellor, the New Chancellor, people involved in the administration of the University, trying to get a sense from them exactly what their intentions were. I questioned Trustee Schroth, who presented their case in the Appropriations Committee last week and tried to get a sense from her what she thought the Trustees' intentions were and it became very clear -- I will begin with what we do have in writing, which is clearly not what we would like to see in terms of specifics but I think begins the process of ultimately addressing our needs.

This was in their conclusion statement that they submitted to the full board which was adopted. "We have concluded that extending Bachelor degrees to the Lewiston-Auburn area should be a high priority for the University of Southern Maine. Operating funds for such a purpose could be sought in future appropriation requests. We doubt a specific facility in the area is an appropriate use of resources at this time." That statement isn't as hard as I would like to see it but, based on that suggestion, that is what I base my beliefs on.

I am saying to you today that withdrawing from this attempt to include a facility for the Androscoggin County area on this bond issue was a difficult decision but was it made with the understanding that the Board of Trustees at the University of Maine and University officials under a new administration to begin in July will work tirelessly to see that these needs are addressed. By their own admission, the need is there. By this legislative history and demonstration that we are willing to make a financial commitment, if the proof is there that it is necessary, which I think it is, I think we have an awfully lot to go on. But I rise today mainly to put into the Record what my understanding is with the University community, that the need has been identified and that they think it ought to be addressed.

In this day and age, particularly in the Lewiston-Auburn area, where in 1960, 47 percent of our people were employed in shoe and textiles and today that number is somewhere around 7 percent, that I think is a very startling statistic, which should give you an idea of the kind of thing we are talking about.

The new demands on employees and laborers today to upgrade their skills is a key opponent to economic growth. We are not talking about putting a program into a city or area, we are talking about addressing a region's economy. It is more general than that. It is an integral part of our economic infrastructures, that is what we are fighting for. I am not saying that there can be a University program in every single community in Maine -- you have got to look at the big picture. We have the second largest population center in Maine, better than 100,000 people, it is a historical oversight that must be addressed and I am going on good intentions and commitments that I have heard from the University community that they believe that as well. So, my intentions are and I am sure the intentions of my colleagues to work with the University system in the ensuing months and attempt to work out some implementation plan, if you will, to see that these programs are delivered.

Don't, in any way, criticize my colleague, Mr. Pouliot's, efforts today. He believes very strongly in this issue as I do but I wanted to explain to you precisely how we have gotten to this point and, as far as I am concerned, how we intend to proceed. It is my hope and my desire that next year the University will be prepared to deal with this issue, which I believe is certainly inevitable.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: Just two short things. I, too, feel the same way about my good colleague, Representative Nadeau, and I also feel the same way about my entire delegation. We have worked very hard

for this, we are not at each other's throats, we will walk out of here as comrades, but I would like to make a couple of quick comments.

Today, before you kill this amendment, I want you to examine your souls closely because there will be other issues that will be coming before you this year, next year and the years to come. You have not heard anything here today saying that we are not justified in this. You have only heard compliments -- that we are deserving of it.

He read you a conclusion statement -- if you read the same statement and how many of you in committee read bills and you read words such as should, could and future -- I ask you in all honesty, is that a commitment? I have from an extremely high (I don't know if you call it high authority) but whatever it is, someone told me that there is no strong commitment from the Trustees, there is nothing that is documented to say that something will be done for Lewiston-Auburn next year. You all know, if something comes up within the system, and they have to change their course, I can assure you that we will not be put on the front burner. I can't tell you enough and I examine my soul every time if I have to defend and fight on a bill before I kill it -- was there any information given here today saying that that bill is not deserving? That is all I ask.

Representative Aliberti of Lewiston requested a roll call.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief this afternoon because I think the one concern that I have had and expressed to this body on a number of occasions dealing with the University of Maine system and especially how it relates to the Lewiston campus really was one, as the Representative from Lewiston mentioned earlier, and that is quality education. He wants a quality education for the citizens of his city and the surrounding areas and I can't quarrel with that whatsoever. But I think we have to look at the situation that we find ourselves in now -- we have seven campuses of the University of Maine currently and the question I think we have to ask ourselves is, can we afford another campus of the University of Maine system? The Trustees, at this point, don't seem to think that we can.

I am concerned that if we get involved with telling the University Trustees that they are going to have to establish a campus there that it will further dilute the problems that were earlier this year identified by the Visiting Committee's Report. That is the concern that I have, a quality education but you have to take it from whence it came. Where are we now? Can we afford to further dilute and divert our resources to the Lewiston area? They say, no. I am hopeful that they will reassess their position in an attempt to phase in or implement some sort of a plan that may, in fact, redirect resources from other campuses in a more integrated system than what we have today. I can't define that for you, I am just hopeful that the position that the Lewiston delegation and the area has taken has merit -- the gentleman is right, there is no question about the fact that the population is the second largest in Maine but unfortunately for them, they are within an hour's drive of three campuses of the University of Maine system now. There are a lot of us here (I am

not one of them) that don't live within an hour of the campus of the University system, let alone three. That may be a problem for them -- the simple location of the existing campuses.

The issue that I have sort of focused on is one of quality and I don't want to negate or dilute the quality of education that is being offered at the seven campuses that we have now by trying to establish another one. That should be left up to the Trustees and they should say to us -- how is it going to be handled? I don't think that we should be telling them how it is going to be handled until they have failed to act completely.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I am really flabbergasted at the remark of the illustrious leader of the opposition party in making a statement -- can we afford education? My goodness, is there anything that we can afford more than education?

Secondly, the dialogue of one hour's drive -- I am not concerned about the services for those that can travel that one hour, they will travel one, two or ten hours to get their education. You don't understand our situation and our concerns. It is not those that can travel, it is those that cannot travel that we are most concerned with. Those that are willing to take five, six or seven years to reach their status in the quality of life that most of us enjoy -- they are the one's that we want served. That is my battle, to give the opportunity to those in the past 40 years that I have been associated with education that will not have the opportunity to this gift and this grant of an educational system that they can take advantage of.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I just want to comment on statements made by Representative Higgins, my good friend, and I forgive you for calling it a campus again.

We aren't talking about a campus as you know but that is sort of a lighthearted approach -- obviously, you can call it a campus and live within that definition but what we talking about is a program to deliver particular types of services that many, many hours of research and study went into creating. The model plan that we have discussed over the past few months is something that the Trustees have before them. It is not a question of distance to another campus, it is a question of market, it is a question of taking a look at the market that you serve, be it a university or some kind of private sector retailer. You analyze various markets and you try to put together a sense of where you ought to be in order to generate the most capital, human capital or financial capital. It is not a question of distance to another campus, it is a question of servicing an area that is underserved.

The study that was done a couple of years ago by Arthur D. Little was basically the foundation for this whole effort and that study demonstrated that there was a huge number of people (in the thousands) that would take advantage of the University services were they available and that is the point. There is a demand for those services. If you did the same kind of study in another part of the state without that density of population, the market wouldn't bear

out, you wouldn't have the evidence that you need to make that kind of investment. You have got to base this entire premise on the facts and that, ladies and gentlemen, is what we are working with.

As far as draining resources from the rest of the system, the programmatic costs that we have been talking about is about \$1.5 million, which is about two to two and a half percent of the entire University budget. That is not budget busting sounding to me. That is not my concern.

We have heard time and time again from folks about what kind of sense it makes to have two in Aroostook County, a campus in Presque Isle and one in Fort Kent and even a campus in Machias. To take Fort Kent as an example -- my understanding is (I think I learned during our series of economic tours) 80% of the students at Fort Kent are kids from Aroostook County. Okay. Half of those kids could afford to go away to school but there is still 40% that would not have that access and opportunity for a higher education. That to me is far more expensive than whatever it is costing us to operate that campus up in Fort Kent. The same principle applies to what we are talking about.

In my earlier comments, I probably sounded like I was opposed to the amendment per se but, obviously, what we are talking about, the fight that we have been waging, I am in full support of. The bottom line, very simply is, in my way of thinking and playing with the cards that we have been dealt, as far as achieving the ultimate objective, I am putting a lot of faith in a lot of people, mainly in the University system. If they disappoint me next year, then I am probably going to look fairly foolish and have some egg on my face but I will be back, we will all be back, and I don't think this legislature has the authority or the responsibility of necessarily dictating the University on how to run their business but they are not elected. We are elected. It is our job to bring the needs of people to their attention, that is what we have done. We never expected the University with all of their competing priorities to come in and volunteer spending more money. The pressures on them are too great to realistically expect that. It is our job to make certain that they, as appointees, in essence, public officials in their own right, are aware of what the needs are out there so that is what we are talking about. Once we did that, they did their own study, they documented the evidence, we didn't do that. It was their studies, their contracts, their staff putting all that data together so they have the data, they have the information, they have reached the conclusion that the services are needed. What we are saying as Representatives of that area is, let's get going, please work on an implementation plan, we will work with you, it is essential to the economic future of an entire region of this state. I think that is sort of the bottom line.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: As the gentleman from Lewiston is aware, that down in our end of the state, Lewiston-Auburn is served currently through the University of Southern Maine. That is the base for the programs that exist in those two cities. I think we have to have a commitment here, all of us, that between now and those of us who come back in the 113th that our short term consideration has to be



that that base at the University of Southern Maine not be weakened further. If the University of Southern Maine is weakened, the programs at Lewiston-Auburn will be weakened.

The Visiting Committee ignored a major problem when they looked at the University of Maine system, the number of campuses. They side-stepped it and they refused to make a decision. That is going to be one of the major issues that is going to have to face the 113th in terms of the campuses and where the priorities are in terms of being underserved. I want to make a promise now to the gentleman from Lewiston, that if returned back here to the 113th, because realizing the importance of education and economic opportunity in jobs to make sure that Lewiston-Auburn has its fair opportunity within the University of Maine system.

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

Representative HANDY: Mr. Speaker, Members of the House: I am going to urge you today to support the motion to indefinitely postpone because I believe the commitment that was made to us by the Board of Trustees will not go away because of what they said on the Record and because we have a strong legislative delegation in the Androscoggin County area.

The Representative from Kennebunk indicated that programs offered in that Lewiston-Auburn area come from USM -- for the Record, they do not. For the most part, they come from the University of Maine in Augusta. But I think what the Representative did say is very important in that we can't weaken the whole system. I don't want to weaken the whole system and I see this as an opportunity today to urge the people of Lewiston and in the district that I represent, to support the bond issue that goes out before them for the capital construction that is very badly needed in our existing University system.

To my good friend, Representative Pouliot, our future is not far down the line as far as I am concerned. We will fight again for services that are needed and documented in Lewiston.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Winslow, Representative Carter, that House Amendment "A" to Committee Amendment "C" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

92 having voted in the affirmative and 41 in the negative with 17 absent and 1 vacancy, the motion did prevail.

(See Roll Call No. 333)

Subsequently, Committee Amendment "C" was adopted. Representative Carter of Winslow requested a roll call on engrossment.

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 engrossed. Those in favor will vote yes; those opposed will vote no.

122 having voted in the affirmative and 12 in the negative with 16 being absent and 1 vacancy, the bill was passed to be engrossed as amended by Committee Amendment "C" and sent up for concurrence.

(See Roll Call No. 334)

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

### ORDERS

On motion of Speaker MARTIN of Eagle Lake, the following Joint Resolution: (H.P. 1751) (Cosponsors: Senators MAYBURY of Penobscot, BERUBE of Androscoggin, and CLARK of Cumberland)

#### JOINT RESOLUTION RECOGNIZING THE HONORABLE ETHEL B. BAKER OF ORRINGTON

WHEREAS, high on the east bank of the Penobscot River in the same house where her mother was born, birth was given to a beautiful baby girl; and

WHEREAS, this young lady would serve 21 years as the town clerk of Orrington in that same house next door to the town office; and

WHEREAS, in her absence, her children would issue fishing and marriage licenses for the townspeople for a fee of 15¢ as the house became more like the town office; and

WHEREAS, this gentle lady came to Augusta as a State Representative to abolish billboards and establish a fine for highway littering, among other important matters; and

WHEREAS, she would be the first woman to complete 7 terms in the Maine Legislature as a member of the 99th, 100th, 102nd, 103rd, 104th, 105th and 106th Legislatures; and

WHEREAS, this dear colleague is here in our chambers today and celebrated the 80th anniversary of her birth on May 21, 1986; now, therefore, be it

RESOLVED: That We, the members of the 112th Legislature of the great and sovereign State of Maine now assembled in Special Session, pause in deliberations to welcome the Honorable Ethel B. Baker of Orrington and extend to her our very best wishes for the 80th anniversary of her birth; and be it further

RESOLVED: That although bullfighting in Maine became a lost cause, we thank this lovely Matadore for establishing the ladies retirement room among other legislative improvements; and be it further

RESOLVED: That copies of this resolution, duly authenticated by the Secretary of State, be transmitted to Ethel by her son in token of the sentiments expressed herein.

Was read and adopted and sent up for concurrence.

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

PAPER FROM THE SENATE

The following Communication:  
The Senate of Maine  
Augusta

May 29, 1986

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

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Energy and Natural Resources, the Governor's nomination of Annee Tara of Freeport for appointment to the Citizen's Forestry Advisory Council.

Annee Tara is replacing Sharon Lunner.

Sincerely,

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

Was read and ordered placed on file.

The following Communication:

The Senate of Maine  
Augusta

May 29, 1986

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

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Energy and Natural Resources, the Governor's nomination of William Blodgett of Waldoboro for

reappointment to the Board of Environmental Protection.

Sincerely,

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

Was read and ordered placed on file.

Unanimous Leave to Withdraw

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Amend the Tax on Tobacco Products" (Emergency) (S.P. 975) (L.D. 2420)

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide for Liquor Licensing of Cruise Ships (H.P. 1746) (L.D. 2432)

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 4 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. 10 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

The following Communication:

The Senate of Maine  
Augusta

May 29, 1986

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

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Labor, the Governor's nomination of Vendean Vafiades

of Freeport for appointment to the Maine Labor Relations Board.

Vendean Vafiades is replacing Russell A. Webb.

Sincerely,

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

Was read and ordered placed on file.

The following Communication:

The Senate of Maine  
Augusta

May 29, 1986

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

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Labor, the Governor's nomination of Gwendolyn Gatcomb of Winthrop for reappointment to the Maine Labor Relations Board.

Sincerely,

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

Was read and ordered placed on file.

#### CONSENT CALENDAR

##### FIRST DAY

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

(S.P. 971) (L.D. 2416) Bill "An Act to Provide Emergency Funding for Sheltered Workshops" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-554)

Under suspension of the rules, second day notification was given, the Senate Paper passed to be engrossed as amended in concurrence.

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

#### REPORTS OF COMMITTEES

#### Divided Report

Seven Members of the Committee on Taxation on Bill "An Act to Amend the Tax on Tobacco Products" (Emergency) (H.P. 1742) (L.D. 2429) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-756)

Signed:

Senators: TWITCHELL of Oxford  
EMERSON of Penobscot

Representatives: CASHMAN of Old Town  
SWAZEY of Bucksport  
JACKSON of Harrison  
McCOLLISTER of Canton  
WEBSTER of Cape Elizabeth

Four Members of the same Committee on same Bill report in Report "B" that the same "Ought Not to Pass"

Signed:

Senator: DIAMOND of Cumberland

Representatives: TARDY of Palmyra  
MAYO of Thomaston  
NELSON of Portland

Two Members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass"

Signed:

Representatives: ZIRNKILTON of Mount Desert  
INGRAHAM of Houlton

Reports were read.

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

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

Mr. Speaker, Ladies and Gentlemen of the House: The reason that this bill is before you is that a month or six weeks ago we put together a tax package to fund a spending request for the University of Maine and I am sure you all remember it very well.

One of the components of that tax package was a new tax on smokeless tobacco, cigars and pipe tobacco that was intended to raise \$450,000. Many of us who supported that provision of that tax package did so because we felt there was a need for \$450,000 of revenue and, for that reason, that tax was appropriate.

Since we adjourned the Second Regular Session of the 112th, the Taxation Office has done a little more work on the revenue projections from the tax we passed and they have determined that instead of raising \$450,000, the tobacco tax we passed six weeks ago raises somewhere in the vicinity of \$1.1 million or \$1.2 million.

This bill was submitted to adjust that tax to raise the \$450,000 we originally intended. The report that I have moved, Report "A" is "Ought to Pass" as amended -- the original bill that was submitted to this Special Session is embodied in Report "C." Report "A" provides for a 30 percent tax

on smokeless tobacco. The tax that we passed six weeks ago provided for a 45 percent tax on smokeless tobacco. Report "A", which is before us now, provides for no tax on cigars or pipe tobacco. The tax that we passed six weeks ago provided for a 12 percent tax on cigars and pipe tobacco.

The intent of the people who signed the Majority Report is simply to be consistent with what we tried to do six weeks ago, which was to raise \$450,000 to help fund the University of Maine. No more, no less.

The original bill that we considered in the Second Regular Session of the 112th called for a tax on smokeless tobacco and for no tax on cigars and pipe tobacco. This is also consistent with that.

I guess I really don't like to raise taxes, I don't think anybody does. When we do it, we do it because we feel that the revenue need is sufficient to warrant our action to raise a tax. In this case, because of erroneous information that was provided to us, we have raised the tax higher than we had to to meet revenue needs. The signers of the Majority Report are attempting to correct that and roll the tax back to match the revenue needs.

Now, you will hear arguments today that part of the reasons this tax passed was because of health reasons, -- snuff, chewing tobacco, cigars and pipe tobacco are bad for your health; therefore, you pass a tax to increase the price and that discourages their use. I suspect that that is probably true. I also suspect that there are people in the House who voted for that tax for that reason. I am not one of them. I voted to raise the tax because we needed the money. We have raised \$800,000 roughly more than we need -- I think that it is entirely appropriate we roll the tax rate back to reflect the original revenue need.

I urge you all to support Report "A" so we can send this to the other body so they can take proper action.

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I request a roll call on the motion.

I would like to urge this House to reject Report "A" so we can go on and accept Report "B" which is the "Ought Not to Pass" Report. I am a little surprised that we were called back to a Special Session to deal with an issue that I care very deeply about as many of you know -- corrections, since the state prison is in my district -- and we have taken a lot of time to deal with a bill that changes the law that the ink hasn't even dried on yet.

We imposed a tax on smokeless tobacco and other tobacco products at the end of the Second Regular Session and I was one of those individuals who did so with the knowledge of what smokeless tobacco products do to the young people of this country. All you have to think about is the story of Sean Marsee, the young man who died from leukoplakia. He was a smokeless tobacco user. This young man earned 28 gold medals in track and field and died at the age of 18 directly as a result of utilizing smokeless tobacco so I supported this tax because I felt it would provide a deterrent to our young people from utilizing this product.

I think it is rather strange and bizarre that this legislature would simply change a tax because the revenue estimates are off. If you look at the April income figures that we receive or the monthly

income figures, you will see that our revenues fluctuate from month to month. Some months are up; some months they are down. I was rather surprised to hear the Chairman of my committee mention that this tax is going to raise \$800,000 more than we thought. At the beginning of the week, it was \$500,000. Now it is \$800,000 -- who knows what it is going to be next week? I don't think it is proper tax policy and I certainly am a little bit surprised that this legislature would even consider this proposal at this time in a Special Session to deal with Corrections, a proposal that is only six weeks old. It doesn't seem right to me.

I would urge this House to reject Report "A" and go and to accept Report "B".

I would also point out, by the way, that we just took "Leave to Withdraw" on another bill to tell you how much time and effort has been spent on this issue -- the original bill was brought in and it had a Senate sponsor so they decided they had to get a House sponsor because of the constitutional questions. I just don't think it is the appropriate use of our time here in this legislature to even talk about this issue. I think we ought to reject and go on and defeat Report "A" and accept Report "B".

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I, too, hope that you will reject Report "A" and as soon as we have done that, reject Report "B" so we can get on to, in my opinion, the most sensible Report of all and that is Report "C".

When this tax was passed, I, too, like Representative Cashman did so for the reason that we needed to raise revenue to fund what were and are, some very pressing problems that this state is dealing with. The 45 percent tax on smokeless tobacco and 12 percent tax on cigars, pipe tobacco and other tobacco was an amendment that was presented on the floor of this House. To have a tax that is so grossly penalizing one particular area of industry such as the 45 percent tax on smokeless and then not to do much of anything on another area of this same industry, which has been clearly demonstrated to have ill effects on our health (just as any of these other forms of tobacco do) I think is grossly unfair. It would be like imposing a 45 percent tax on motels and a 12 percent tax on hotels. What is the difference? If you have a tobacco product, whether it is cigars, pipe tobacco, smokeless tobacco or any other form of tobacco that contains carcinogens that are proven to be dangerous to our health, then they should be taxed equally and fairly to the industries and to the consumers, the people of this state.

I think contrary to what Representative Mayo has said that it is, indeed, good if tax policy, when we learn that we have made a mistake, that we have misunderstood or inappropriately disregarded the accurate figures as to what this tax was going to raise. I think it is good policy that we then should change the method that we are using to tax this to, to more accurately reflect legislative intent, to more accurately reflect fairness and most importantly, to more accurately set the original intent of the legislation as it was meant to be.

Report "A" proposes that 30 percent tax on the smokeless tobacco and a zero percent tax on pipe tobacco and cigars. I plead with you to understand

that that is not fair to one part of the industry. If you are voting for a tax because you believe it is dangerous to people's health, then I ask you to do it fairly. If you are voting for a tax to raise revenue, then Report "C" will accomplish that. It will raise the original amount of revenue that we intended to raise and I ask you now to reject Report "A" and Report "B" and consider the fairness of Report "C".

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I recognize that everything is not fair in this life and I also recognize that several people, including myself, do not enjoy seeing people chewing tobacco or whatever they do with snuff. I don't know what they do with it but I happen to think it is not a very pleasurable thing to watch.

I do have to agree, and it is not very seldom that I agree with the gentleman from Old Town, Representative Cashman, but today we are on the same side of this issue.

The gentleman from Mount Desert raises an interesting point but I have to go back to the intent of the original bill and that deals with just smokeless tobacco. When that bill came to the floor of the House, it dealt with both smokeless tobacco and other tobacco products. Those other tobacco products would be cigars, pipe tobacco, anything that was missed by the excise tax that currently stands on cigarettes. That tax was 25 percent, 25 & 25. We were going by the information provided to us during the hearings and work sessions that those percentiles would give us approximately \$450,000. In both packages that came down here to fund the University of Maine \$15 million dollar issue, it carried the tobacco tax with them.

It certainly would not have been my intent, and I don't believe it would have been the intent of the majority of that committee, to have raised more than \$450,000 with this tax. When it came to the floor, there was an amendment presented which changed that 25-25 to 45-12. That 45-12 generates from \$500,000 to \$800,000 additional dollars. I think that it is appropriate, at the present time, to reduce the tax to reflect the over-collection. We have heard that it is good tax policy and good public policy to tax things which are not conducive to our health or that are detrimental to our health heavily enough so that it would discourage people from buying those. I submit that we have laws on the books currently, which are supposed to discourage the sales of these products or the purchase of these products so they wouldn't be purchased. I don't think that is good public policy, folks, to tax things to the point that we are going to discourage people from purchasing them. We have laws which currently say that is illegal to do it. If we aren't enforcing those laws, maybe we should enforce them. But the people who purchase them, and they all aren't children or teenagers or all adults, it is everybody who purchases them and they are the ones who are paying the tax.

All we are saying that we are reducing that tax from one group from 35 to 30 percent on the wholesale sales price and removing it completely on the tobacco products which are required to be smoked. That wasn't the intent of the original legislation to tax those in the first place so here we are with the 30-0

-- we have another proposal which will be coming up that has the 10-10.

I recognize that it will probably be next to impossible to get what we really want but I think here is a compromise that was worked out in the committee amongst the majority (we tried to get everybody on board with us, I thought we had everybody this morning but I guess that changed before I got there) so I hope that you people will follow the good lead of the gentleman from Old Town, Representative Cashman and support him on his motion.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, do you believe that chewing smokeless tobacco is hazardous to your health? If you do, you would support a higher tax rate. I have no problem with that. Do you believe that the abuse of cigars and inhaling of pipe tobacco is also hazardous to your health? If you do, then you will also support a tax that is equal to that of the dangers of smokeless tobacco, that is fair to all aspects of the tobacco industry and one that is a sensible, proper tax policy and one that accomplishes the revenue raising needs that we had originally intended to accomplish. Report "C" accomplishes that.

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

Representative NELSON: Mr. Speaker, Ladies and Gentlemen of the House: Yes, I do believe all of those things and if you believe that, you will vote against the motion to accept Report "A" and you will go on to accept Report "B" because Report "B" is "Ought Not to Pass" on this entire measure.

In the bill itself it says, "that whereas in the judgment of the legislature, these facts created an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of public peace, health and safety now therefore be enacted."

Do you believe that the legislation before you does, indeed, protect the health and safety of the people of the State of Maine? Good heavens people, you want to give the money back? I have never heard this before. In the 108th Legislature, former Governor Longley turned back \$64 to all the people of the State of Maine and then a year later, we asked for four times that back from the people. People think it is silly to give back money which you haven't even got yet. I tell you, this is terrible tax policy, if you are going to repeal it, it hasn't even worked yet. We have all kinds of important projects that are going unfunded and you want to give back money to the people of the State of Maine today so that you can come in in January and ask for more money? I urge you, if you believe all these things and we all do, that you will vote no on the pending motion so we can get on and accept Report "B".

As a matter of fact, I would like to make a motion for indefinite postponement of the measure before us and I would ask for the yeas and nays.

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

Representative INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I think I can explain my name on this bill (as you can see, I am on Report "C") in one word and that is fairness. It is true that smokeless tobacco is hazardous to your health.

So is smoking cigarettes, so is smoking cigars and so is smoking pipes. I don't see any reason that all of the above shouldn't be taxed.

As far as the smokeless tobacco is concerned, I think the fact that it is before us is an issue and has been an issue this year and it is going to create more social awareness for the whole State of Maine. I think there are many, many people out there that had no idea what the hazards were of this. But to come down so strongly on that particular one, I feel, is unfair. I feel the 10-10-10 is the fairest approach and that is why my name appears on Report "C" and I hope you will defeat the present motion and go for Report "C".

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

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I just want to respond to one thing in all of the things that you have heard today. I found it very interesting that the good gentleman from Mount Desert, Representative Zirkilton, suggested that if we make a mistake in our revenue estimates, we ought to correct the tax. I suppose then he is probably going to come in with a bill to raise the corporate income tax \$9.4 million because that is the mistake we made so far this year -- we are under by \$9.4 million so I assume we should raise it. That would make sense if you follow his argument out to its logical conclusion.

I urge this legislature, when it votes today, to consider why we passed this tax the way we did. I supported the amendment because I felt that it was an appropriate step to discourage the use and consumption of smokeless tobacco to prevent the Sean Marsee's of this world from occurring again.

The SPEAKER: Representative Nelson of Portland moved the indefinite postponement of the bill and all accompanying papers and requested a roll call.

The Chair recognizes the Representative from Farmington, Representative Roberts.

Representative ROBERTS: Mr. Speaker, Ladies and Gentlemen of the House: I have been very much impressed with Representative Cashman's leadership in financial matters during this session. I don't get angry as often as I used to but there are a few things that make me very angry and one of those things is to look back to the magazines and newspapers of the early 1950's and see the cigarette ads where they had doctors in white coats saying "more doctors smoke X-brand of cigarettes than any other cigarette." It makes me very angry when I read those newspapers and found that the tobacco industry had hired one of the most respected scientists in Maine and every time new evidence came up of the link between smoking and cancer, he would come out with a statement that said, "there is no causal link between smoking and lung cancer." I don't believe that there is anyone who believes that now.

I did not vote for this for social purposes originally but one thing that makes me very angry now is to see ads put out by the tobacco industry where they hire respected sports figures to urge people to use smokeless tobacco. As I look back to 1951, I know how many friends died very unpleasant deaths because they believed those ads that said the doctors urge you to smoke a certain brand of cigarettes. When I think of how many young fellows are copying those sports figures and adopting the habit of using smokeless tobacco, it makes me very, very angry.

I urge you to support Representative Nelson's

motion to indefinitely postpone this bill.

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

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I could stand here for an hour and speak to you about the health issue involved here but I won't do that. I will give you one statement -- the average first use of smokeless tobacco was 10 years or a 5th grader. I have a 5th grader at home and, when he gets his allowance on Saturday, I hope the price of tobacco is so high that he can't afford to buy it. They are using it regularly. They begin regular use at age 12. There are all kinds of medical studies out, including the Surgeon General's Report. The National Cancer Institute has concluded that the use of smokeless tobacco is a dangerous practice that may increase a person's risk of cancer to the mouth, larynx and the esophagus and it poses a significant threat to the general and dental health of the user.

I ask you to please support Representative Nelson's motion.

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

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

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

91 having voted in the affirmative and 51 in the negative with 8 being absent and 1 vacancy, the motion did prevail. Sent up for concurrence.

(See Roll Call No. 335)

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Expand Veterans' Employment Benefits to Veterans of Recent Military Actions (S.P. 977) (L.D. 2423) (C. "A" S-552) which was passed to be enacted in the House on May 28, 1986.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-552) and Senate Amendment "A" (S-553) in non-concurrence.

The House voted to recede and concur.

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

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

(At Ease)

The House was called to order by the Speaker.

SPECIAL SENTIMENT CALENDAR

In Memory of:

the Honorable William J. Garsoe, of Cumberland, a popular florist, accomplished pilot and exuberant conservative Lawmaker during the 106th through the 109th Maine Legislatures, who distinguished himself as an outstanding Floorleader, councilman and friend; (HLS 1120) by Representative DILLENBACK of Cumberland. (Cosponsors: Representative HIGGINS of Scarborough and Senator DIAMOND of Cumberland)

On motion of Representative Dillenback of Cumberland, was removed from the Special Sentiment Calendar.

Was read.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: Bill Garsoe and I were friends for 40 years. He was a friend to many of you. Bill was the type of person who enjoyed fishing, hunting and his many sailing adventures.

Bill graduated from the University of Maine as a Captain in the U.S. Air Corp during World War II. He also was a pilot for the Maine Forestry Service. He served four terms in this House with distinction, as Assistant Minority Leader and Minority Leader.

One of his seatmates, former Representative Ed Kelleher said, "Bill always did his homework and enjoyed a sharp debate. After one occasion after presenting a lengthy bill, he was questioned repeatedly by the members -- having ready answers, he finally stated 'that he apparently had more answers than they had questions'."

We have lost a good friend, which was attested to by over 300 people who attended his memorial service. The world needs more people like Bill Garsoe and Mr. Speaker, I respectfully request that when we adjourn, we do so in memory of Bill Garsoe.

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

Representative HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to commend Representative Dillenback for his excellent tribute to Bill Garsoe.

Those of us who served with Bill fondly remember him as an outstanding legislator. He was a scrappy, well-informed individual, well aware of the legislative process and always able to hold his own ground. Beneath his tough veneer, Bill Garsoe will be remembered as a fine person and highly respected

by everybody.

Subsequently, was adopted and sent up for concurrence.

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

PASSED TO BE ENACTED

Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$7,700,000 for Various Projects at the University of Maine (H.P. 1639) (L.D. 2311) (C. "C" H-753)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 121 voted in favor of same and 5 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

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

PASSED TO BE ENACTED

Emergency Measure

An Act Establishing a Commission to Implement Computerization of Criminal History Record Information (H.P. 1627) (L.D. 2295) (H. "A" H-745 to S. "A" S-454) and (H. "B" H-660)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

BILL HELD

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

Representative MCCOLLISTER: Mr. Speaker, is the House in possession of: RESOLUTION, Proposing an Amendment to the Constitution of Maine Providing for Filling a Vacancy in the Office of Governor after the Convening of the Legislature and before the Governor-elect is Inaugurated (S.P. 974) (L.D. 2419) (C. "A" S-551)?

(In House, Failed of Final Passage on May 28, 1986.)

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

On motion of Representative McCollister, the

House reconsidered its action whereby L.D. 2419 failed of final passage.

Representative Gwadosky of Fairfield requested a roll call on final passage.

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. 2419. This being a Constitutional Amendment, a two-thirds vote of the House is necessary. Those in favor will vote yes; those opposed will vote no.

74 having voted in the affirmative and 65 in the negative with 11 being absent and 1 vacancy, the motion did not prevail. Sent up for concurrence.

(See Roll Call No. 336)

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide Emergency Funding for Sheltered Workshops (S.P. 971) (L.D. 2416) (C. "A" S-554)

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. 101 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Expand Veterans' Employment Benefits to Veterans of Recent Military Actions (S.P. 977) (L.D. 2423) (S. "A" S-553; C. "A" S-552)

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. 104 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. 11 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Emergency Measure

RESOLVE, to Establish a Commission to Examine

Problems of Tort Litigation and Liability Insurance in Maine (H.P. 1624) (L.D. 2289) (H. "A" H-754 to H. "B" H-655)

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. 106 voted in favor of the same and 3 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

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

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act Relating to Commercial Vehicles (S.P. 914) (L.D. 2282) (H. "A" H-733 to C. "A" S-484)

- In House, Passed to be Enacted on April 15, 1986.

- In Senate, Passed to be Enacted on April 15, 1986 in concurrence.

- Recalled from the Governor's Desk pursuant to Joint Order (S.P. 984)

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-484) as amended by Senate Amendment "B" (S-555) and House Amendment "A" (H-733) 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:

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Allow Investments of State Funds Linked to Agricultural Loans" (H.P. 1732) (L.D. 2425) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-759)

Signed:

Senators: McBREAIRTY of Aroostook  
BERUBE of Androscoggin  
PEARSON of Penobscot

Representatives: McGOWAN of Canaan  
LISNIK of Presque Isle  
SMITH of Mars Hill  
CONNOLLY of Portland  
CHONKO of Topsham  
CARTER of Winslow  
NADEAU of Lewiston

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

Signed:



Representatives: HIGGINS of Scarborough  
FOSTER of Ellsworth  
BELL of Paris

Reports were read.

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

Committee Amendment "A" (H-759) 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" and sent up for concurrence.

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

COMMUNICATIONS

The following Communication:

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
SPEAKER'S OFFICE  
AUGUSTA, MAINE 04333

May 28, 1986

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

Dear Clerk Pert:

This is to notify you that pursuant to my authority under House Rule 1, I have today appointed Rep. Patrick E. Paradis, of Augusta, to serve as House Chair of the Joint Standing Committee on the Judiciary.

Sincerely,

S/John L. Martin  
Speaker of the House

Was read and ordered placed on file.

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Making Appropriations and Allocations for the Expenditure of Funds Received by the State as a Result of a Federal Court Order in the Exxon Oil Overcharge Case" (Emergency) (H.P. 1713) (L.D. 2406) reporting "Ought to Pass" in New Draft (H.P. 1753) (L.D. 2436)

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was

read a second time, passed to be engrossed and sent up for concurrence.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Establish a Legislative Task Force on Railroads to Study Tax Exemptions and Economic Subsidies to Railroads and the Future of Rail Transportation in Maine and its Effect on the Economic Viability and Stability of the State" (H.P. 1729) (L.D. 2421) reporting "Ought to Pass" in New Draft (H.P. 1754) (L.D. 2437)

Signed:

Senators: MCBREAIRTY of Aroostook  
BERUBE of Androscoggin  
PEARSON of Penobscot

Representatives: MCGOWAN of Canaan  
CARTER of Winslow  
NADEAU of Lewiston  
LISNIK of Presque Isle  
HIGGINS of Scarborough  
CONNOLLY of Portland  
FOSTER of Ellsworth  
CHONKO of Topsham  
BELL of Paris

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

Signed:

Representative: SMITH of Mars Hill

Reports were read.

On motion of Representative Carter of Winslow, the House accepted the Majority "Ought to Pass" Report and the New Draft read once.

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

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

CONSENT CALENDAR

FIRST DAY

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

(S.P. 978) (L.D. 2424) Bill "An Act to Authorize a Bond Issue in the Amount of \$6,000,000 to Deal with Asbestos in State Facilities" Committee on

Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-564)

Under suspension of the rules, second day notification was given, the Senate Paper was passed to be engrossed as amended in 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 following item appearing on Supplement No. 26 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

Bond Issue

An Act to Authorize a Bond Issue in the Amount of \$6,000,000 to Deal with Asbestos in State Facilities (S.P. 978) (L.D. 2424) (C. "A" S-564)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 79 voted in favor of same and 9 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (H.P. 1734) (L.D. 2427) reporting "Ought to Pass" in New Draft (Emergency) (H.P. 1748) (L.D. 2433)

Report was read and accepted, the New Draft read once.

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

Representative Paradis of Augusta offered House Amendment "A" (H-746) and moved its adoption.

House Amendment "A" (H-746) was read by the Clerk and adopted.

Representative Paradis of Augusta offered House Amendment "B" (H-747) and moved its adoption.

House Amendment "B" (H-747) was read by the Clerk and adopted.

Representative Paradis of Augusta offered House Amendment "C" (H-748) and moved its adoption.

House Amendment "C" (H-748) was read by the Clerk and adopted.

Representative Paradis of Augusta offered House Amendment "D" (H-749) and moved its adoption.

House Amendment "D" (H-749) was read by the Clerk and adopted.

Representative Paradis of Augusta offered House Amendment "E" (H-750) and moved its adoption.

House Amendment "E" (H-750) was read by the Clerk and adopted.

Representative Paradis of Augusta offered House Amendment "G" (H-752) and moved its adoption.

House Amendment "G" (H-752) was read by the Clerk and adopted.

Representative Paradis of Augusta offered House Amendment "F" (H-751) and moved its adoption.

House Amendment "F" (H-751) was read by the Clerk.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: We have gone through a list of different amendments to the Errors and Inconsistencies Bill and most of those items had absolutely no discussion as to controversy but this particular amendment did raise some question as to whether or not it should have been a separate bill altogether because this is a Special Session and because this bill was not suggested to be included in other pay issues that were debated in the Second Regular Session.

I brought this issue up to the Judiciary Committee yesterday because I believe it to be an inconsistency with how we treat most of the other legislators who serve on Commissions. We all know that when we have a study order in committee -- for instance, Judiciary had a study order last session to do with the insanity defense. Every member that comes down is given a per diem. That is true for all the other committees in addition to the council and this legislature establishes certain commissions. When those commissions meet, on the whole, approximately 75 percent of the time, those commissions pay expenses and per diem to the legislators. There is a clause in there that says that. There is no consistency in having that clause in there. It depends on how the commission is established, it depends for what reason it is established -- there is no consistency. 99 percent of the members on those commissions are paid. They involve commissioners, bureau directors, employees of different departments, city employees, county employees, and private sector employees.

What happens is that only legislators who serve are the ones who are not paid. They are paid expenses. I happen to live in Augusta -- perhaps if I lived in Aroostook County or York County, I might have a different perspective. My expenses are \$2.20 to come over here and perhaps \$5.00, which is the average we put in for a meal. We get taken to the cleaners. Within the 50 mile range limit, it is all taxable, expenses, per diem, whatever. Even if there is no per diem, you can come down here (especially with the low price of gas) with \$100 or \$150 in gas, then you are given some recompense for more than just a tankful of gas to come down here. I don't mean to take away from that in any way, shape or form but I think that all these commissions, all the legislators should be treated fairly. Whatever work they are doing -- if the legislator deems that it is important work, then we should give them at least the

legislative per diem. They would get it if they were serving on the committee that had a study order as much as they would be doing anything else.

So, I suggested that it was an inconsistency that ought to be considered when we did the Errors and Inconsistencies Bill. But the committee, to its benefit, has a squeaky clean bill and that is why we had all these amendments so we brought out every issue to the floor. There wasn't a comma or a semi-colon or a dash or a dot — then it was an amendment and I think everyone else can conform to that from what I have said.

We have a series of amendments from "A" to "G" — "F" is before us now and I urge its adoption out of equity, out of fairness and out of consistency, basically because I have looked to try to find some consistency — why does a board pay to have employees who are paid from the legislature, the executive branch and the legislative branch and not pay a legislator — I have never been able to find any consistency. There are probably three or four of those in existence today. We aren't talking about very much money and the caveat is the Speaker, the President of the Senate have to approve. It is not an immediate, you have to submit your expense voucher for approval by the presiding officer of your body. There is no room here for abuse but I think there certainly is room in the present statute for reform. I urge you to keep an open mind on this issue.

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

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I move that the indefinite postponement of House Amendment "F."

I would also request a roll call.

I hope you will indefinitely postpone this amendment. I am very proud of the Errors and Inconsistencies Bill and the work that the Judiciary Committee did on that. We made an agreement when we worked on that bill at the Regular Session and the Special Session but in that bill, we were to have only those issues that were definitely technical errors and nothing substantive. That is exactly what we did. Anything that we considered substantive that was not technical, we had written out in a form of amendment. You have just seen those amendments. Those were issues that the intent was there but perhaps something had been left out and we felt that they would be substantive if we didn't use an amendment so we did.

This amendment that you have before you, "F", is an entirely different situation. There is no error here and there is no inconsistency. This is a separate bill.

Now, if we wanted to consider per diem payment to legislators, it should have been an amendment and should have been added to the compensation bill. However, it was not submitted to the compensation bill. It could have been a separate bill during the legislative session. It was not submitted as a separate bill, it was just put in as an amendment to the Errors and Inconsistencies Bill.

I really feel that if we are going to consider per diem expenses, there should have either been an amendment to that compensation or it should be a bill that is presented to the full legislature with a public hearing. Right now, we do not know how much money it does involve or would involve. We don't know how many commissions pay or how many do not. We

just do not have any figures on that at all and I think it is too bad to take a chance on jeopardizing the compensation bill. I am really disappointed to see this amendment here so I do hope that you will vote against it.

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

Representative SPROUL: Mr. Speaker, Men and Women of the House: I think it is important so we all know the issue so I will read it. This amendment says: "Any legislator serving on a Commission whose members were not granted per diem compensation in the law establishing the Commission shall receive the legislative per diem for attendance at Commission meetings provided that the President of the Senate and the Speaker of the House of Representatives have approved such a payment."

I would like to pose a question through the Chair to my colleague from Augusta, Representative Paradis.

If this amendment passes, will the Speaker of the House and the President of the Senate be able to authorize per diem for legislators who are members of Commissions when there might be public members of the Commission who receive no per diem and no compensation?

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

The Chair recognizes that Representative.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to my colleague from Augusta, I believe the answer is no.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Presque Isle, Representative, MacBride that House Amendment "F" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

71 having voted in the affirmative and 69 in the negative with 10 being absent and 1 vacancy, the motion did prevail.

(See Roll Call No. 337)

The SPEAKER: The Chair, at this time, would rescind his announcement to you that the Chair would authorize expenses for those who attended Committee meetings.

Perhaps I should explain that. You may remember that the Chair sent a letter to members of the House saying that he would authorize expenses for members who came to the legislature for work sessions — when you had come to hear someone else's bill. The Chair is now rescinding that and there will be no expenses nor per diems paid to anyone without the Speaker's specific approval of each one pursuant to state law. The Chair will be somewhat more selective about those he authorizes and the Chair will use the roll call on

this one to pay those otherwise.

The Chair would just advise you that is exactly what the law says I can do and that is what I will do.

On motion of Representative Carter of Winslow, having voted on the prevailing side, the House reconsidered its action whereby House Amendment "F" was indefinitely postponed.

Representative Murphy of Kennebunk requested a roll call on indefinite postponement.

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

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I certainly didn't plan to speak on this bill. I thought the amendment would pass. You can use my speech for two purposes -- one, to listen if you are interested and two, to have the House cool off for a couple of minutes.

Representative Allen, Representative Parent and I actually served on a Commission last summer. One of them was a milk study and the information that came out of that report we used in the House this past session on some of the bills that we debated. This was a good example of an error that actually occurred. We thought that we would be getting our per diem like you usually do when you serve on a study commission but we didn't.

This amendment will not give us our money. This is not retroactive so there is nothing in it for us but I just wanted you to know that that is one example where there was a mistake made where people who served on a commission thought they were going to be getting, of course, their mileage. It may be that we have an agreement that we don't add substantive changes to the Errors Bill -- of course, this is an amendment on the floor -- but there is an opportunity here to have some wide agreement and just pass this through. Of course, it is inconvenient to have people serving on Commissions when they thought they would be getting their reimbursements and they don't so it is quite simple, I don't think we should get into the partisan stuff at this point.

I can think of three Representatives in this body and I understand there are others, bipartisan, that wound up short of cash due to a misunderstanding. It was just a drafting error or an administrative error, it wasn't something bad, but I think we should pass this thing and go on to some of the important issues today.

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

Representative SPROUL: Mr. Speaker, Men and Women of the House: The actions of the last few minutes disturb me a little bit. I have served in this body for almost four years now and, during that four years, especially as a member of the State Government Committee, who has spent many hours looking over boards and commissions -- we put them for the first time ever all into one title of the law, we looked at the reimbursements of boards and commissions, and we tried to make them uniform as best we could throughout state government. During those studies, we had great discussions on how legislators should be paid. The general consensus was, yes they should receive a per diem in those instances where other members of the commission are being paid.

I have a fear, based on Representative Paradis'

answer to my question that his belief was that, legislators could not be paid if there are other commission members also not being paid. The fact that it was only a belief scares me a bit. It bothers me, if you are going to have a commission and some public members who have to donate their time whereas the legislators are paid. Representative Paradis brought into the debate the discussion of members of the executive branch, who by the nature of their very salary, are being compensated for being on the commission. I submit to you that we also receive salaries in addition to per diem and, even though they may stop at the end of a session, that I, in no way, view that to be the end of my duties. I view that salary to be for all year, even though I may be paid for only a few months.

What I really resent right now is what I believe to be, crude as it seems, an attempt to buy your vote for \$50. My vote is not for sale for \$50 and I hope yours isn't.

The SPEAKER: The Chair would caution the Representative from Augusta, Representative Sproul, in questioning the motives or desires of any one member in this body, including the Speaker. The Chair would advise the Representative from Augusta, Representative Sproul, that if this amendment were to pass that the Chair would not be authorizing per diems when other public members are receiving it. However, the Chair does adequately feel that there is a fairness question to the entire issue and that, if some people get it, others should get it as well. It is not a question as to whether or not one is getting it at one time or another and the Chair would simply remind members of this body that this issue has been around here before and frankly, it has never been discussed or, for that matter, solved.

I believe, based on what I have said, it is one of fairness. Basically, it is a situation where some members get it and other don't. For those who live as far away as I do and in my case, it does not apply but it does apply to others who are not members of leadership and do not get their per diem (Legislators in leadership always do, pursuant to law) and it simply is not fair. For example, if someone lives in Presque Isle, they get \$112 per trip to come here and serve. Someone who comes within a 50 mile radius, in addition to getting soaked by the federal income tax, they come here and get nothing at all.

In fairness, what ought to take place is, based on the decrease in the cost of fuel, that there ought to be a decrease in the per diem rate for mileage for legislators. The Chair fully appreciates the fact that this is not the place nor the time to do it. A decrease in the per diem could actually take place next year.

The Chair recognizes the Representative from Augusta, Representative Sproul.

Representative SPROUL: Mr. Speaker, I appreciate the warning in the questioning of motives but I do believe that it would be appropriate for the Chair to step down if he wishes to debate the bill.

The SPEAKER: The Chair would advise the Representative from Augusta, Representative Sproul, to please read Rule 1 in case he has not done so before.

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 Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, I would like to pose a question to you.

Under these commissions or studies that they set up -- don't they usually set up finances with them? When they are not set up, isn't this a means of going and getting monies without the approval?

The SPEAKER: The Chair would answer in the negative.

The pending question before the House is indefinite postponement of House Amendment "F." Those in favor will vote yes; those opposed will vote no.

56 having voted in the affirmative and 83 in the negative with 11 being absent and 1 vacancy, the motion did not prevail.

(See Roll Call No. 338)

Subsequently, House Amendment "F" was adopted.

The Bill was passed to be engrossed as amended by House Amendments "A", "B", "C", "D", "E", "F" and "G" and sent up for concurrence.

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

#### REPORTS OF COMMITTEES

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

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Making Appropriations from the General Fund for the Expenditures of State Government for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (H.P. 1719) (L.D. 2409) reporting "Ought to Pass" in Second New Draft under New Title Bill "An Act Making Appropriations from the General Fund and Changing Certain Provisions of Law Necessary for the Operation of State Government for the Fiscal Years Ending June 30, 1986 and June 30, 1987" (Emergency) (H.P. 1755) (L.D. 2438)

Report was read and accepted, the New Draft read once.

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

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

#### REPORTS OF COMMITTEES

##### Divided Report

Majority Report of the Committee on Human Resources on Bill "An Act to Implement Certain Recommendations of the Blue Ribbon Commission on

Corrections" (H.P. 1716) (L.D. 2408) reporting "Ought to Pass" in New Draft (H.P. 1749) (L.D. 2434)

Signed:

Senators: GILL of Cumberland  
BUSTIN of Kennebec  
GAUVREAU of Androscoggin

Representatives: NELSON of Portland  
ROLDE of York  
SIMPSON of Casco  
MELENDY of Rockland  
CARROLL of Gray  
MANNING of Portland  
PINES of Limestone  
KIMBALL of Buxton

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H.P. 1750) (L.D. 2435) on same Bill.

Signed:

Representative: TAYLOR of Camden

(Representative SEAVEY of Kennebunkport - abstained)

Reports were read.

Representative Nelson of Portland moved that the House accept the Majority "Ought to Pass" Report.

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

Representative TAYLOR: Mr. Speaker, Men and Women of the House: I stand before you today urging that you defeat the pending motion of accepting the Majority Report so you might go on to accept the Minority Report.

I think in the last few days there have been some very exciting proposals involving our correctional system. It is time and we all realize that. I support the majority of them.

However, I did sign on the Minority Report, which deletes the portion of the bill which reflects and refers to any of the county responsibility for state prisoners. County government plays a role in the structure of our state. Some people believe in that; others do not. It may be impossible for many of you to separate county jail issues from the entire concept of county government. Please try to for the purpose of this discussion.

I believe in community corrections. I will work for community corrections. A Department of Corrections personnel said to me this morning, "If you present this Minority Report, you do not believe in community corrections." That simply is not true.

If I do believe in community corrections, why then am I presenting this to you? It would, indeed, delay the process obviously. By delaying the process, am I being an obstructionist? Will we lose momentum in the process? I think not. However, if some momentum is lost, I think that that is better. I think that we should slow this process down because I am very, very interested in doing it right.

To make such a policy change without proper ground work will cause us all problems and it will cause it at all levels -- on the state level, county level and on the local level. Why do I want to

delay? I will tell you my reasons.

Cost to the county -- please believe me when I tell you that the figures that we have dealt with for the last week are questionable. This is through no fault of anyone. This is not intended that we be deceived. The figures that are used by people simply do not have any common ground. They are not uniform. There was little reason for them to be uniform because people have never requested uniform information. For example, this means that the figure of the famous \$34 of which almost every single figure in this entire package is based is not a true figure. I don't blame anybody but it simply causes problems.

Solutions -- get someone at the state level, develop a person who will help in the whole accounting reporting process now with the Department of Corrections.

Problems -- what is the cost to the state? To pass a bill at this particular time in the 112th Legislature, with only one-quarter of expenses including our fiscal requests, I feel is simply not responsible. It is too tempting at this point to play down figures when you don't have to deal with them yourself on the long term basis. The figures, as I have said, that have been given to you have gone from \$2 to \$6 million in the next biennium. Again, the basis of this is based on figures that have not been run through people as a common request so you do not have any idea what the cost of this bill is to the state.

Solution -- have that person, again, work on cost accounting and reporting guidelines which would be used at all levels.

Problems -- what is the cost in proposals to programs at the county level? What are the goals of this state as they place people in county facilities? What are they? Do you know what they are today when you vote on this? There is no mention of females, juveniles, there is no mention of the level of expectation that the state has for how people will be treated at the county level. Believe me, when the state pays the bill, they expect things.

This is very, very important from my perspective as we plan ahead to the success of this transfer.

Solution -- put, support and fund a person in the Department of Corrections as the Assistant Commissioner for correctional community programs today to develop policies, plans, investigate what now exists within the county for programs and consider contractual, private businesses to run programs, all these kinds of things can be done now. That is all I feel should be done now. Because there are so many statements that make me very uneasy about this, I urge us to delay it and I feel that there is a great many unknowns but that does not mean that I am not in favor of community corrections.

I urge you to defeat the pending motion so that we can go on to accept the Minority Report.

I would request a roll call.

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

Representative SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I did not really abstain from the Report, I voted this morning and signed the "Ought Not to Pass" jacket. However, because of the rush of things around here, it was told to me that, if I stuck with the "Ought Not to Pass" jacket, all of the committee reports would have

to be reprinted and would cost thousands of dollars to the state in extra administrative work. So, being the kind of gentleman that I am, I said, certainly, to make it easier on Ed and the rest of you, I will abstain from this. But in intent, I really did sign the "Ought Not to Pass" jacket this morning.

I didn't do that lightly. I don't like to come up here (and this is the only proposal of the Governor's on Corrections that we have seen here) and dismiss it lightly.

There are two schools of thought really -- one is, do something even if it is wrong; the other one is, don't do it unless it is right. I am afraid that the Brennan Administration on this bill here accepts the first philosophy.

Two out of the three reports that we have seen as members of the Human Resources Committee recommend building a new jail, a new prison. The Visiting Committee's Report of the Maine State Prison on a report dated yesterday says "that it is the consensus of the Board of Visitors that the Maine State Prison is inadequate as a maximum security prison. It is recommended that a new 500 bed prison be built in Warren on state owned land." Ehrenkrantz also recommended that a new prison be built.

In fact, the report that the Governor so heavily relied upon, the Blue Ribbon Commission, the very first paragraph that you read in the Report says "in visiting and inspecting the institutional facilities of the Department of Corrections, Commission members were acutely aware of the deteriorated and outmoded conditions. There is ample evidence of long term neglect, maintenance, repair and renovation needs that urgently deserve attention."

This so-called Special Session on Corrections doesn't even give us the opportunity to discuss those kinds of options. The Report sees a doubling of the prison population in the next ten years from about 1200 inmates today to 2400. The Brennan Administration is not concerned with the next 10 years; it is only concerned with the next 6 months. I am afraid that the Governor's long awaited solution to the prison overcrowding is really twofold -- dumping the prisoners back into the county jails and a very liberal alternative sentencing approach, the most liberal reform that we have seen in many years. The Brennan Administration's real answer to the overcrowding solution is not to put them in jail in the first place.

I would like a solution, however, which protects the victim, the community and the public and I don't think this bill meets that.

Judge Alexander, in testimony before the committee, said "felons needed to be protected from society's ills and pitfalls so they can be productive members of society." The leading causes of crimes, told to us in testimony, were psychological problems, substance abuse problems and environmental problems. I can't see, under this intensive program, when you put the convicted felons back into the same situation from which they came, I think it is going to lead them to commit the crime all over again. If the Thomaston population is 50 percent repeat offenders, I can't imagine what it will be under this program.

Judge Alexander also told us at the hearing that "the system works only with proper supervision and resources." Again, I don't see that happening under the Intensive Supervision Program. The trial of the pilot program is too large to begin with. In committee, I tried to amend it down perhaps to 100

people so there would only be 250 people -- 250 people would be allowed out on this program is 20 percent of the prison population now. Of course, those people already in jail would not be eligible under this -- it would only be people convicted after this bill goes into effect but still that is a very large pilot program.

How intensive is the supervision under this proposal? You heard in caucus this morning that personal contact is not even required with these people. A telephone contact would be appropriate. They are allowed to use alcohol, although they cannot abuse it, whatever that means, -- you know, they could have three or four beers every night while they are watching the Celtics -- I don't think those kinds of things are intensive supervision.

We have bills in here every year trying to reform bail -- we feel that people while they are out on bail commit other crimes -- those people out on bail haven't been convicted; yet, we have convicted felons here and you are going to allow them back on the streets. I think there are other solutions that we could address, I think there are other solutions to the prison overcrowding rather than this Intensive Supervision Program -- I don't think the people back home in our communities will go for it. I know that I am alone on this in committee (you have to understand, I serve on one of the most liberal committees anyway) but I just didn't feel that I could support it at this time. I don't like to hang out alone on a 11-1 or 12-2 report but I felt that I had to on this one.

Mr. Speaker, I move that this bill and all accompanying papers be indefinitely postponed.

Representative Murphy of Kennebunk requested a roll call.

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

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

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you not to vote to indefinitely postpone this bill. I would like to address some of the concerns raised by the previous speakers.

First of all, let me say that in regard to what the gentlelady from Camden said, (and I know that she is very concerned about the county portion of the bill although she feels very strongly about the other portions of the bill) I shared that feeling that she had when I first was presented with the bill. In fact, I even made a motion within the committee to strip the county portion of the bill. I, too, felt that the counties were going to bear a burden and there would be additional costs to the counties. When the gentlelady said that the \$34 per day is not a true figure, she is absolutely correct and that is why, the way the bill is written now, that \$34 per day figure would only be in existence for three months. From that time on, the actual cost to the counties would be met by the states. This was the position of the County Commissioners Association, who worked very closely with our committee as did the

MMA, when we worked on this bill. They were willing to go along with this \$34 per day figure for the three month period.

Also in the bill, and this has not been mentioned, in the interim there would be a uniform accounting system for the costs of county jails. This is something again that the County Commissioners Association has agreed to and feels the need is very necessary so that is in the bill.

Also in the bill, there would be an Associate Commissioner for Community Corrections. We felt that it was very important for the department to have a person who was only going to work on community corrections. There is also a position in there, which is something that the Sheriffs Association asked us for, which would be to have a person to give technical assistance to the counties to meet the standards for county jails which are state standards. The Sheriff from Hancock, particularly, said that that has been a real problem for him trying to get technical assistance. It is not that the Department of Corrections did not want to give it but that they did not have the personnel.

Let me also refer to the gentleman from Kennebunkport, who was very concerned about the Intensive Supervision Program. As we stated at the caucus, there are a number of states that have this program, states that certainly have much worse prison populations than we do -- states like Texas, Georgia, Florida. In Florida, when this program was put in, they actually went beyond their goal because they found the program was working that well.

I know that there are some real concerns about it. I have talked with some of you who are concerned about this question of the five contacts. Perhaps that can be addressed in an amendment if this bill survives. I have talked to Commissioner Allen about the technical difficulties of having five actual face to face contacts per week. He feels, that given the 25 to 2 ratio, there could be at least a minimum of three contacts every week, that there certainly would be five at the beginning of the program. If you just had the people doing that, they couldn't work on some of the other things that they need to do. We would still leave in the language of five contacts of which a minimum would have to be three.

I know that there has been some concern about the fact that there might be sex offenders that would come under this program. Again, I just talked to the Sheriff of Somerset County -- he suggested perhaps that you take out rapists and serious sex offenders in another amendment. One of the questions that I asked the Sheriff of Hancock County who was at one of our work sessions was, how will this program impinge upon you as a law enforcement officer? He said, I like this program very much and so did the Sheriff of Somerset County because then there would be additional resources in the community for them to deal with rather than having people, after they have served their entire sentence, dumped back.

I would like you to carefully consider all of these elements of a bill that we worked very hard on until very late in the evening to put together before you vote to indefinitely postpone. I hope you will not vote to indefinitely postpone.

THE SPEAKER: The Chair recognizes the Representative from Casco, Representative Simpson.

Representative SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address my remarks to the Representative from Kennebunkport and

to the members of the House regarding ISP and whether this is an appropriate method of punishment. We have a concept that the punishment should fit the crime but if we agree to that, then we go to the black and white situation that the crimes committed, and the only punishment is the amount of time that you serve in jail with your probation.

As many of you know, I have operated a pre-school for a number of years. At first, it took me a lot of time to understand, that in pre-school, the major goal is not to punish children for what their incorrect behavior is but to change their behavior. The way to do that is, when they make a mistake, (commit a crime) you find a punishment or a corrective situation that fits what they did. For example, if they spill their milk, they get up and get a sponge and clean it up; they don't go stand in the corner. What ISP is doing is saying, what is your crime? Then they look at the sentence that should go with that crime. Either you go to jail or you go on ISP or you go to jail and go on ISP and probation.

It says that ISP is going to look at your crime -- the judge is going to look at your crime, the warden is going to look at your crime and they are going to make a recommendation of what your ISP is to fit your crime, not to punish in an illogical way but to say, we are going to punish you in a logical way. So, if your crime is spilling your milk, your punishment is, you will get a sponge and clean it up. I know that that is very simple but that really is what we are trying to do with corrections. If we look at the definition of correction, it is to correct. So, if someone commits a crime and it is not one that is listed on a little green sheet that makes them ineligible for ISP, what we are saying is, we are going to try and find a punishment that will correct your crime and, hopefully, change your behavior. Again, I don't mean to be simplistic, it is a very complicated situation and that is what it is trying to deal with, a very complicated problem.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The county portion of this bill has had a lot of talk back and forth. Last year, we passed sixteen county budgets. The Maine Department of Corrections took the figures that we, the legislature, passed on those county budgets and added them up because if the legislative delegation passes it, then that is what the county budget ought to be -- right? I would assume so. The budgets for 1985 came to \$6,582,091 for all sixteen counties. That is the budget dealing with the county jails portion. Taking a 10 percent increase per year until 1990 would work out to about \$10,600,000, roughly. What the Department of Corrections has found is that by 1990, there will be approximately a 10 percent statewide increase to the county jails whether this bill passes or not. The county jails will be seeing an approximate 10 percent increase to their population.

The figures that the Department of Corrections came up with of \$34 were part of the recommendations of the Carter Gobel group that the County Commissioners Association and the County Sheriffs Association talked about. They said, this is the group we want to do the consulting report so they took the county budgets that we, the legislature, voted on for 1985. Now, if any figures are wrong, I

don't know why they are wrong because you and I voted for them in our county delegations and voted for them on an emergency basis here last year.

They took that \$34 figure, which was the average figure for the State of Maine for every county and they plugged it into a formula for 1990 and added an inflation rate. It showed, for all the people that the state will be paying for by 1990, that it would roughly be \$4.3 million. Whether we accept this idea of the counties getting reimbursed or we don't accept it, the county population is going to grow. We know, for instance, some sections of this state are growing much quicker. Most of us went on the development tours and heard that. We heard that from the local Chambers of Commerce, businesses, and the educators. For instance, York County is the fastest growing county in the state. We also heard that other counties are growing fast, at a much greater population than 10 percent.

At a 10 percent increase of our last year's county budget for our county jails comes to \$10.6 million, and we know they are going to have an increase, whether we pass this or not, -- do we, down the road, want to have some of that money being paid for by the state? The calculations (and I feel that they are probably conservative calculations) done by the Department of Corrections came to approximately \$4.3 million. So out of the \$10.6 million -- approximately \$4.3 million will be paid for by the state by taking 70 inmates from Kittery, Fort Kent, Machias to Rumford. In some counties, as many as ten people are being taken. One of them happens to be my county but we, in my county, are addressing the problem of overcrowding because we know that right now we are at 127 (average daily population) and in the year 1990, we are going to be at an average daily population of 186. You certainly cannot put that many people in the county system. You need to look at, either establishing additional beds, which the committee said you didn't have to do, or you need to look at building maximum security units. Maybe, in some instances, you want to build maximum security units but in some instances, maybe you want to look at those particular people who get sentenced to 9 months or less and take those people and put them in a unit called a halfway house. In a month and a half or two months, these people are going to be free anyway. They go out and work right now.

One of the things that I found out from the Hancock County Sheriff is, the guy who gets convicted today is on work release tomorrow. He goes out now from the county jail so why not have him in the last month and a half of his sentence in a setting that is much cheaper than a county jail setting or maximum security unit such as a halfway house, which would be much cheaper to run. Then the person could be back into the community working and starting to pay back his debt to society by paying taxes. He might also be giving his wife and children some money to live on and they might not be on general assistance, which our committee is also dealing with this year. If we got this person back into the community, he could get acclimated to what is going on and, hopefully, get him into some programs that will help him deal with the problem that got him in there in the first place. In most instances, that is going to be alcohol or drug problems. Seven percent of the people in this state, who are incarcerated are in there because they were involved with drugs or alcohol.



If we don't start addressing today the problems of why people get in there — as Representative Simpson said — they are going to be incarcerated for 6, 8 or 10 months and they are going to be back on the streets again, getting back into the same problems, drugs and alcohol or we could start to stem the tide.

As most of you know, I have been very involved in the last four or five years with this area of corrections and I have visited a few states. I have talked to some of these people when I have gone on conferences. They have a real bad problem in a lot of states.

Just three weeks ago, I talked to the Senator, who is the head of the Judiciary Committee in the State of Tennessee, and he told me that it is so bad down there that the federal judge said, "some of these institutions you no longer put people in, unless somebody comes out." I don't see us being that bad compared to Tennessee but I think if we don't start looking at addressing the whole problem of corrections, that we could get that way. We are only a state of 1.2 million and I think if we start looking at the problems that we have, maybe down the road we won't have to put people into prisons because maybe we have caught them before they get into the problems.

I am not saying this is going to answer every single problem of corrections but I think it is a start and I think it is something that we, the legislature, and it isn't the county sheriffs, the county commissioners or the people back home, it is we, the 151 members here and the 35 members down the hall, who have got to start to address the problem. If we don't start to address it now, down the road the Tennessees, Texas and Georgias will be here.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: Sorry to keep you here longer but I have been sitting here listening to this and I don't profess to know all the answers and I commend the people who worked on the committees and done the work that they have and I agree with many of the things that have been said. However, I think my constituents back home are not going to be pleased at what you are going to do here in this Special Session — they do not want to see people on the streets — they want you to do something and I agree that we should do something. We need training, education, programs but we do not do it in a Special Session. You have a whole year to do it in and that is when we should do it. We shouldn't be doing it now.

When you tell the people back home you are going to hire 112 people, you are going to put them in special places, you are going to add them to your county jails, you are going to expand the county jails because we don't have enough room — this is ridiculous. What we should do, if there is an emergency here, is have a small bond issue, enlarged Cutler or the other location perhaps, do something like that on a temporary basis. We should take a whole year to find out what we should do in the prisons.

I ask you, if I am playing golf with the judge every weekend and I commit a crime — do you think he is going to put me in one of these homes? I will stay home watching TV. The affluent are going to be treated special — always have been, always will be.

I cannot go home and face my constituents and tell them that I voted to put the people on the streets without any further study than has been done.

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

Representative NELSON: Mr. Speaker, Ladies and Gentlemen of the House: Currently, we put the people on the street with no strengths, no way to handle life as they face it. Currently, a judge has very few options of a split sentence. The maximum number of years in prison, very few services, and out on probation. What is probation? It is one person in 144 cases — that is what we have now. That is what you can say to the people when you go back home. What makes them feel it is any safer now?

ISP, Intensive Supervision, is in-house arrest — it means you have to go to work, to school, and you have to know that somebody is watching you. If you slip, just barely, you go back to prison. Don't pass go, don't collect \$200, you go back.

In states that have capital punishment like Georgia, Florida, California, Louisiana, and Texas are tough states with criminals who do a lot more damage than those here in the State of Maine. They have ISP, they embrace it, and it works.

Most of the people who are currently in our jails are going to get out soon. They are going to get out and they are going to get out without no supervision. Open up the door and out they go. One person is going to supervise 144 of them? We know there is no room in the prisons, let alone services for sleeping and you are going to be proud to say to your people back home — well, we were called in and we wrung our hands and shook our heads and said, no, no, this just wasn't good enough. Well, it is good enough. It makes a lot of sense.

Read that report — it is not very long with big print and it makes a lot of sense. An internationally renowned criminologist recommends this and so does the Blue Ribbon panel. You are going to turn your back on what they have to say? Have you read that Report? Have you read the bill? Take a minute or two. Open up the bill before you, the Majority Report, and take a good look at ISP. ISP is even embraced by almost everyone on the committee. When you go back home, you would have nothing to be ashamed of if you have ISP.

As far as counties are concerned, it is practically a windfall of \$34 a day that they never had before. They currently house, feed, and protect state prisoners and get nothing. This bill says, for at least three months, you get \$34 a day. \$34, for some counties, is a lot more than they had before. We heard that, currently, \$34 was an average, which means that some are higher and some are lower. I am not trying to say that putting this bill in place for three months is going to mean it is going to lower your property tax rate — that is ridiculous. For the first time, at least in this bill, you are going to have uniform accounting principles — that ought to be refreshing for the county administration and that is what we are asking for in this bill. Take a look at this bill, nothing to be ashamed of, we have done things. If you are concerned that a rapist could be allowed "free on the streets" get it to second reading and let's amend it. Let's talk about that. Don't dismiss the concepts here unless you have read them and understood them. If there are some that you are uncomfortable with, let's deal with them in second reading.

I submit to you that it is a creative, workable proposal and one that you can be proud of. I hope you vote against the motion to indefinitely postpone.

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

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: I have read the Report and I have read the bill. I also talked to the Commissioners from both Penobscot County and Piscataquis County. I have talked with the law enforcement people and parole officers and it is true, in Georgia, they do have a successful program plus a lot of other states that you mentioned. But according to the people that I am talking with, under this ISP, any of the people that go through the court system are problem people. They have problems with them because they invariably are used under plea bargaining. If the people come through from the corrections end of the spectrum, then they create a very successful program and that is the difference.

I realize that some of the aspects of the bill have tried to speak to those but some of the people back home, my enforcement and parole people, are not satisfied with it. I think this is too big a project to try to solve in 48 hours.

This morning Representative Kimball mentioned a particular thing during the discussion. He brought out the point that we are turning these people back into society (and I would like to add to that) and if we are doing that, then we should ask the public a little bit more thoroughly than we have done at this point. Everybody that I have talked to agrees with this concept and I believe that it is probably the best thing that ever happened to the criminal system in the State of Maine but I don't believe that we should rush into it like this.

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

58 having voted in the affirmative and 81 in the negative with 11 being absent and 1 vacancy, the motion did not prevail.

(See Roll Call No. 339)

The SPEAKER: A roll call has been requested on acceptance of the Majority "Ought to Pass" Report. 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 Nelson of Portland that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

78 having voted in the affirmative and 61 in the negative with 11 being absent and 1 vacancy, the Majority "Ought to Pass" Report was accepted and the bill read once.

(See Roll Call No. 340)

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

Representative Nelson of Portland offered House Amendment "B" (H-761) and moved its adoption.

House Amendment "B" was read by the Clerk.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I just wanted to explain what this amendment does. The purpose of this amendment is to delete the legal fees for the calculation of support of prisoner costs. It was inadvertently included in the New Draft and the amendment also deletes the appropriation section from the New Draft, which is more appropriately placed in the Appropriations Bill.

Subsequently, House Amendment "B" was adopted.

Representative Higgins of Scarborough offered House Amendment "C" (H-764) and moved its adoption.

House Amendment "C" was read by the Clerk.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I had two concerns with the legislation that is presently before us. One of them dealt with the county jails taking over what I thought was the state's responsibility and asking the counties to add on to their jails and issue bonds to expand their facilities rather than the state taking its responsibility in diverting that back to the local taxpayer. It appears that by adoption the Majority Report that this body is interested in doing that. I think it is unfortunate but that is the action we have taken.

The second concern that I had with the bill was one that is addressed in this amendment. Basically, what the amendment does is that it says "any person that goes into the Intensive Supervision Program must spend at least 90 days incarcerated." I feel that that is important to the public perception and the public's attitude on how well this is going to be received. I think most people out there feel that they want criminals who have been convicted of crimes to serve time. I think they may be willing to go along with this Intensive Supervision Program but, at the same time, I think they want to feel as though someone has done some time, been incarcerated, rather than just put out on the street and say, "we will watch you more carefully than we do under parole."

I would hope that you would support this amendment today in attempt to try to ease people's feelings about how this program is going to be implemented. I hope that you will adopt the amendment.

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

Representative SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will adopt the amendment. I just want to address a remark made earlier by Representative Simpson and his example about spilled milk -- I, of course, have never been one to cry over spilled milk but we are talking about some different crimes here A, B & C crimes. We are talking about arson, burglary, gross sexual misconduct, kidnapping, rape and unlawful trafficking of drugs.

Another aspect to remember about this bill is to

be included in the Intensive Supervision Program -- you must have committed a crime that would give you at least a three year sentence, one year of Intensive Supervision and two years of probation. So, the crime you have committed must be severe enough to give you a three year sentence. Isn't it ironic, if you commit such a serious crime, you could then be, not sent to jail at all, but one year under Intensive Supervision and two years under probation. But if you commit a much less serious crime, a D or E crime, that would only land you six months in jail -- those types of people would not come under this program. I find that ironic.

I am also concerned about case worker problems. We all know about the overworked wardens, probation people and the case workers in Human Services. I know it is right in statute that you have 25 cases per two case workers here on this particular bill but things in theory never seem to work out in actual practice.

I think the amendment offered by the Representative from Scarborough, Representative Higgins, is a very logical, workable amendment and I urge your adoption.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I haven't yet made up my mind on this particular amendment but I would like to ask both of the gentlemen who just spoke, since both of them voted to kill this bill -- whether putting this amendment on would have any effect on what their subsequent vote would be on the bill?

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

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will go along with this amendment that is before you now if for nothing more than to give the prison officials a chance to evaluate the prisoner for a short period of time to see if he should go on this Intensive Supervision Program.

I was one that voted against the original bill. This makes it a little more compatible. I think this really would give them a chance to see the prisoner and see his reactions, his intent, how he is going to behave and what not, before they make a decision to put him on this Intensive Supervision Program.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the sponsor of this amendment and ask him where the people that he is hoping to go to jail for 90 days would be going?

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

The Chair recognizes that Representative.

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I think that is probably the biggest issue why we are here today and that is that we don't have the space to put the prisoners anywhere right now.

I have favored some additional buildings, if you will, to house inmates if that is appropriate. So far, that has not been offered here and I think to make the bill a little bit more palatable, as the

previous Representative mentioned, we ought to ask the people to serve some time, to evaluate them and to eliminate the real public outcry that may come if people are allowed to walk the streets because we don't have the space for them. If we don't have space for them, I don't think that means we should just say "if we don't have space for them, let's put them out on the street." I realize that Intensive Supervision is more than putting them out on the street but I do feel that if we are going to do that, that the public ought to feel as if we have asked them to complete some part of their sentence and that they are going to be protected from those individuals doing further damage and that we have had a chance to evaluate their performance after being sentenced rather than before.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I am not quite sure whether the Representative from Scarborough has answered the question. The question was, where would these people be incarcerated?

The bill calls for these people to be incarcerated in the county jail. They would do, according to the bill, their time in the county jail for 90 days, not in the state system for 90 days. The bill calls for anybody who would be doing an A, B, or C crime, starting April 1, 1987, to be doing their time of incarceration inside a county jail and not in a state system. So starting in April of 1987, those people who would be spending these 90 days would be doing their 90 days in your local county jails and not, and I repeat, not in the state system.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I would just call the good Representative from Scarborough's attention to Page 7, Line 8 and 18 of the bill, which speaks to the opportunity that the judge has now to do this. What you are allowing under the bill and not under the amendment is the "court's discretion" which is a constitutional right to make that choice. In no way, is a person put on ISP without the thorough and complete assessment of the Department and the court so I would say, well intentioned, well meaning and for all intents and purposes, the amendment looks good -- what you are doing really is overcrowding the county jails and you are putting in statute something, if you read the bill, that is already there.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: After listening to this debate, I find it somewhat interesting and alarming because it sounds to me that, for a person to meet the very restrictive criteria to be eligible for this program, they quite possibly could find themselves participating in this program without ever having served a day in a county or state jail facility. These people more than likely committed a fairly serious crime. Yet, this Administration and this legislature has been proud of the fact that we have a tough drunk driving law in Maine -- so tough, that if you are caught, you are going to spend some time in jail. For the guy who is a law abiding, taxpaying, good, hard working citizen, sometimes makes a

mistake, has a couple of beers too many and winds up getting caught — that person, folks, is going to spend some time in jail. It is mandatory. Yet, you are going to allow someone here who has committed a crime that, in my opinion, is far more serious (and I suspect in the minds of the people of this state as well) and that person may walk, never having spent a day in jail, either on the county or on the state level and they will find themselves participating in this program. That is not right and once again, that is not fair.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: One of the most persuasive arguments that came before the committee for ISP came from Judge Alexander, who said to us that, right now as a judge, he has two choices in sentencing someone who has been convicted in his court. He can sentence them to jail or to probation. If he is sentenced to jail, he can also sentence him to a split sentence. He was telling about certain instances where he would not be able to decide whether someone should be put on probation or sent to jail and he very much wished that he had a third opportunity, which was something that wasn't quite as stringent as jail but certainly more stringent than probation.

I think what you might have, if we were to leave ISP as it is, would be less sentencing to probation and perhaps more sentencing to those people who are going to be sent right onto probation without going to jail and would be put right into this type of house arrest.

I would ask you to consider that in your vote on this amendment.

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

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

I simply want to remind the people that we are talking now about the concern of overcrowding. We heard in the debate recently of the concern of what it is like for those people in county jails. I heard a lot of concern on the impact on the county. This amendment would put that impact back on the county and you would have that overcrowding on the county level.

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

Representative KIMBALL: Mr. Speaker, Ladies and Gentlemen of the House: In considering the amendment, one of the things that I hope people will stop to consider also is, in talking about Intensive Supervision in the caucus this morning, I think you will remember that I was saying that my concerns were the appropriateness of the placement. I still believe that that is a crucial issue because what you are listening to right now is a debate again about overcrowding. Overcrowding keeps coming into the debate every time we begin to talk about appropriate placement. Okay?

In considering the amendment, it certainly makes sense to me that there be a time span where the appropriateness of the placement is evaluated by the Department of Corrections and by the court. I think that a 90 day period of time might be just the time needed for that evaluation to take place as to whether or not it is an appropriate place because you are still hearing that overcrowding is putting pressure on the decision making process. I think you

don't want to lose sight of that.

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

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to point out a couple of other instances to you. I have been affiliated with jails (not incarcerated in them) in my capacity 20 some odd years as a Deputy Sheriff and I am also a bail commissioner presently. It is sad when you see sentences handed down because of the inmate capacity in the jails. The judges know that there is no room in these county jails, at least down in my area they do and I presume that prevails throughout the county.

Some people are either put on probation or they are fined or what not and let go. This, to me, is not right. Some of us bail commissioners have even been approached to let an individual out on personal recognizance rather than put him on cash bail so they don't even have to keep him there for that night because they don't have room. I have never succumbed to these requests. I have strictly stuck to a bail commissioner's job where you make reasonable assurance that they will appear in court when the court date is set. I think, as I mentioned before in this debate, that I was afraid that this could be used as a plea bargaining thing. They assured that that probably wouldn't but still, I have reservations about that.

If we do have this time that they have to spend on their sentence, it certainly would alleviate some of the possibilities of maybe plea bargaining entering into it because the victim would certainly have to spend 90 days in jail anyway and it would give them a chance to evaluate.

When a prisoner comes in to the county jail and is sent over for arraignment within a few days or is put out on bail, it is kind of hard right then and there to find out what this kind of person is really like especially when you get some in for aggravated assault, concealed weapons, things of that nature. You don't know the individual, the arresting officer doesn't know him, the judge doesn't know him — I think it would give a cooling off period and a chance for the officials to evaluate the individual to find out whether he really is one that should go into this Intensive Supervision Program.

I hope you will give this amendment some serious consideration, disregarding the overcrowding of the jails. I don't think we should be sentencing people or making decisions on crowding of the jails — if the guy is guilty, he is guilty. If he isn't, then let him go.

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

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: There is one thing, believe it or not, that we have not discussed here. During the whole Intensive Supervision process, we are forgetting one thing, we have a criminal that has been charged and accused of a crime and there is a pre-sentencing investigation that will already be taking place. The Department of Corrections must conduct that investigation, that very evaluation that the good Representative from Scarborough, Representative Higgins, is concerned about.

The other piece of the puzzle that we seem to be missing here is that that person who we are trying to figure out what we are going to do with has already been serving some time, somewhere, waiting trial,

during the trial and now during this pre-sentence investigation. That could be up to a 90 day period or longer the way the backlogs in the courts are. I think the intention is well meant and I think the amendment is good but I think we are already in the process in the program dealing with that investigation of evaluation. Without that, the Department of Corrections will be unable to make a recommendation whether this person is eligible or should be eligible for the Intensive Supervision Program.

I think you should take that little piece of the pie and add that to the others before you cast your vote.

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

Representative ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, in response to that last statement, perhaps while that may be true in very isolated instances, I think we would find in most cases a person gets out on bail prior to their trial and then gets out on bail again prior to their sentencing date. Unless someone can correct me on that, I think that is, indeed, the case in the overwhelming majority of the cases.

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

Representative MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to repeat what Representative Rolde said. Currently, the judge can already send these people right out on probation with very little supervision. What the amendment is trying to do is say, okay, if you are suggesting that we go with Intensive Supervision to help this person out, we want to make sure they go to jail anyway. So if the judge doesn't want him in jail anyway, he is going to send him out on probation with nothing. Let's make sure this person is followed through with help -- that is what this whole thing is about, trying to help them and redirect them.

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

Representative HIGGINS: Mr. Speaker, I would request a roll call.

Mr. Speaker, Members of the House: There has been some talk about giving judges latitude in how they sentence convicted criminals. I guess the concern that I have there is, for several years, this legislature during the late 1970's, talked a lot about giving judges latitude on sentences for OUI and that didn't seem to work in curbing operating under the influence by the citizens of the state. Finally, the legislature had to enact a mandatory jail sentence. I guess I kind of view this in the same manner.

We are asking the people in the State of Maine and this legislature to make a fairly substantial change in its philosophy in how it sentences convicts. If we are going to do that, I just feel very strongly that we ought not to make the change so dramatically between day and night. There ought to be an interim approach where a person is required to serve some time. I think the public outcry is going to be very, very much against allowing people who appear to be upstanding citizens of this state to walk the streets, not having served any time on a relatively major sentence, when people they may know themselves, as the gentleman from Mount Desert

mentioned, who got stopped for OUI, had to spend a couple of days in jail and perhaps did some other minor infraction and might have to spend six months in jail. Then there could be someone who has been convicted of a much more dramatic crime who is going to be allowed to stay at home with his family under direct supervision. I think that is not the way we ought to handle this and I would hope that you would oppose the motion to indefinitely postpone.

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

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

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

65 having voted in the affirmative and 71 in the negative with 14 being absent and 1 vacancy, the motion did not prevail.

(See Roll Call No. 341)

Subsequently, House Amendment "C" was adopted.

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

The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: I sat through that entire joint caucus and I listened to the proponents advance this bill. I listened to some of the proponents this evening and it gave me the feeling that I have had in past days, where I have been on a new car lot when sales have been slow and there is a great deal of hype and the substance isn't there.

I am speaking as a Representative from Kennebunk and I am speaking in terms of my personal position and philosophy.

We have to deal with reality. I begin to get the feeling that the members of this body are putting their heads in the sand. The problem deals with overcrowding. We feel that we are going to walk away from here and there will be a solution. You know, deep in your heart, that it is wrong.

We have heard very clearly that the county jails don't have the space. They have communicated that to you. We have heard repeated dollar promises, almost pie in the sky, in terms of medical reimbursement, legal reimbursement and all the various contingencies but the track record to this state government in terms of meeting those dollar promises is very poor. All we have to do is look at the record in the last six or seven years of the Finance Education Act. So historically, reality isn't there.

Repeatedly in the caucus today, there were questions -- what impact will this have on the property taxpayer through the counties? What cost will there be upfront? How prompt will the reimbursement be? Those questions were unanswered. I guess that part of the proposal, in terms of the dumping of prisoners down on the county level, I am opposed to because corrections is a state problem. We are here in a Special Session, repeatedly hearing

that we have to move in this direction, because of overcrowding. This has been a problem that has been building for the last seven years and it has not been resolved. It is the state's responsibility, not the responsibility of county government and the county taxpayer.

In terms of Intensive Supervision, I began to get a little nervous in that joint caucus when I heard the phrase "trust in the judges." I fought for two years here to try and outlaw plea bargaining because I didn't trust the judges. Representative Crowley and I, three times running, introduced legislation dealing with bail reform because he and I and others were concerned that, those who were accused of crimes, were being put out on the streets and putting people at risk. There ought to be some strict controls, strict accountability.

In the last few weeks, when we talked about the direct contact, we had been led to believe that it was face to face but we heard today in the joint caucus, it could be a telephone call. A telephone call — Intensive Supervision? A telephone call to a cocaine dealer? To someone who has committed a violent crime?

The gentlelady from Sanford raised a concern in terms of, we are investing a great deal of money in a cocaine task force, a great deal of expense and undercover work to get the conviction and then see that dealer come right back into the community. In terms of the esprit de corps, the morale of those officers in attempting to root out one of the most serious problems within this state and seeing those dealers come back into the community with Intensive Supervision of a daily telephone call.

We have witnessed tragedies in this very city at AMHI where the rules have been loosened and in terms of the tragedy that can occur to members of the general public. We are trying to grapple with the problem of the homeless in this state — many of those homeless on the streets, because of the relaxation of commitment, relaxation of rules, the release out of mental institutions, without this state government following up properly and now we are asked to buy into a program that — forget about our mental institutions, forget about what has happened with the failure of parole earlier, forget about what happened to the failure of probation — this will work, we were told. The record makes some of us very, very nervous.

I think no matter what term, no matter how much hype we hear from the proponents, this is parole. The people back home (and we haven't talked about them too much today) are going to be put at risk because when there has been an error in judgment, and in some of our larger counties where that team can't get to that prisoner that day or that week when they make a phone call, someone might be killed, someone might be the victim of an armed crime — the people who will suffer the errors in this program are the people, men, women and children that you and I represent. No matter how you dress this up, this is parole and it is a completely different direction than the members of this House have been proceeding in the last two or three terms in terms of tightening sentences, in terms of mandating jail sentences, taking away flexibility from judges, putting limitations on plea bargaining. That is the direction we have been going. It is an overcrowding problem and we are completely avoiding facing that problem directly. Instead, we are reversing

direction and saying, let's put them back out on the street. We are acting this evening, and probably finishing up tomorrow, on a proposal that was poorly drafted, poorly defined but I have to commend that committee for the excellent work that they have done improving what was very sloppy legislation that came before them.

There is another question — those of you who plan on returning to the 113th — we are talking about a program that is funded, basically for the last quarter of this biennium, and what is the unfunded liability for this dumping of prisoners down to the county jails? What is the unfunded liability in the next biennium for the Intensive Supervision? I have heard figures of \$4, \$5 or \$6 million a year. Where is the money going to come from and what are we really buying into?

Tonight, this legislation is moving toward one of the final steps in terms of being enacted. My personal feeling as a Representative, the legislation is flawed. It has an unfunded liability. It is a complete reversal of direction in terms of what this legislature has done in the past and what the people of Maine want, those people who are at risk by the actions the majority have taken this evening. The streets, the cities and towns of Maine, if you pass this legislation, will be less safe. It is your constituents and mine that pay the price.

Mr. Speaker, I request a roll call.

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

Representative NELSON: Mr. Speaker, Men and Women of the House: I don't feel any less safe. Eleven people on my committee didn't feel less safe. It is with the recommendations of people who have worked for over a year, it is with the recommendations of committees, commissions who are thoughtful, careful people who have been authorities in the field. It is a committee report that has worked in the past that will work in the future — it has got to be better than what we are doing now and it will be better. I trust in this report and I hope you will vote for the bill.

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 Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't question the work and effort that has gone into this bill but I can't help relate to personal experiences that I have had with matters such as this. I think it was a very clear message that the people back home sent to us several years ago that they wanted stricter laws, more enforcement. It was a very clear message and we reacted to it with our drunk driving laws and some of the other laws that we have passed.

I can't help but feel that we are letting them out the back door. We are bringing them in under these new laws that we passed and then we are letting them out. For example, time off for good behavior, 14 days per month. If you are a trustee, you get another 3 days. I think this was aimed at the

overcrowding situation of the jails. They had to find a way to relieve this overcrowding.

These laws that we passed are state laws and, if you violate a state law under the system that we operate under, you are punished for it. I believe that it is the state's responsibility, even though the counties do get involved in it depending lots of times on the seriousness of the crime. I think we should face up to reality. I think everybody realizes that there is a shortage of cells in our jails and that sooner or later, even if you pass this bill that is before us now, within a very short period of time, there is going to be before us a bond issue or monies to build a new jail. I say that we should grab the bull by the horns right now and raise that money and build a new jail. The sooner we build it, the better off everybody is going to be.

This is a bandaid approach; in fact, I don't even know if it is that. There is no room in the county jails and there is no room in the state facilities. I think we just have to build some facilities to hold these people. The people back home have sent a very clear message to us that they want stiffer laws in sentencing.

Another classic example is on the drunk driving law -- they are sentenced to serve 48 hours in jail. What do they do? The judges know that we don't have the room in the jail so they give us the story -- if we put them in during the week, they are apt to lose their jobs and we have to support the family. Well, I think that was all part of the system when they said they would have to spend 48 hours in jail. If they would sentence them the day that they were taken into court and found guilty, whether it be Monday, Tuesday or Wednesday, it would relieve a lot of the congestion in the county jails but no, they send them in on the weekend. I have been over there when there has been as many as 20 of them come in on Friday night to commit themselves. Their neighbors think they have gone away for the weekend, they don't even know they have gone to jail for committing a crime so I think we really ought to face reality here and take the bull by the horns and look towards building some more facilities to house these people that are breaking the laws of the state.

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

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I have listened to the last few speakers and I, too, had that sense of concern about whether this program was, indeed, going to be putting our people at risk. That was one of the reasons that I asked the Sheriff of Hancock County what he felt about this Intensive Supervision Program. I had no idea before I asked him, what his response would be. I was very surprised to hear that he felt very strongly in favor of it. This is a law enforcement officer who has to deal with these very criminals that we are talking about.

Again, I asked the Sheriff of Somerset County and he said the same thing so I think if those law enforcement officers feel that this program would be very helpful to them, that certainly helped to convince me.

I understand that there is a move afoot to have a bond issue to deal with some building of jail facilities. I don't know where that bill is right now but I understand that that is in the works. But when you tell me that the people of this state are clamoring to build more jails, I believe that the

bond issue that went out in 1983 was defeated and the last bond issue that was passed was only passed by 51-49. I know the comments of the people in my area and they are very reluctant on that particular issue. I certainly would go along with the bond issue that is being proposed.

As we have said, over and over again, this program is being used in states that have capital punishment, that are very tough on criminals and they have found that it is a useful program. That is why I am going to support it and hope you will too.

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

Representative BOTT: Mr. Speaker, I would like to pose a question through the Chair to the good Representative from York, Representative Rolde.

I would like to ask Mr. Rolde -- if you asked those same law enforcement officials whether they thought building a new facility would be a better approach to solving the problem?

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

The Chair recognizes that Representative.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: The answer to your question is, no I did not pose that question because I wanted to know what their particular reaction to the Intensive Supervision Program was. They felt that it would be a very useful tool. Don't forget, I would remind the gentleman from Orono, Representative Bott, that when people come out of prison now after they have served their sentences, they come out scot-free with no supervision whatsoever. I think it was in that regard that the sheriffs felt that they would have additional resources in their community and that these people would be under supervision whereas right now, when those people finish their sentences, they are free.

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

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: I have heard the Sheriff from Hancock County mentioned many times today and I represent Ellsworth, Maine - Hancock County, U.S.A. and for many years was addressed as the gentlewoman from Ellsworth. I am glad that they don't call me the gentlewoman from Ellsworth anymore because I have learned to be tough and I have learned to take a stand.

I do believe in a program of this type but I think it should be a pilot program. I think it should be a pilot program that we can watch and monitor and do a selling job on it to have it work right. I would be in favor of that. I proposed this to my committee (I think there is sentiment there) but we have a tough issue and let's face it head on.

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

Representative LEBOWITZ: Mr. Speaker, I would like to pose a question through the Chair to the Representative from York, Representative Rolde.

Did he indicate to his sheriff that there would be no team in Somerset County when he talked to him about the Intensive Supervision Program?

The SPEAKER: The Representative from Bangor, Representative Lebowitz, has posed a question through the Chair to the Representative from York, Representative Rolde, who may respond if he so



desires.

The Chair recognizes that Representative.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would like to inform the gentelady that York is not in Somerset County.

I met the Sheriff of Somerset County in the hall and I asked him the question and that was what his answer to me was.

The SPEAKER: The pending question before the House is passage to be engrossed as amended by House Amendments "B" and "C." Those in favor will vote yes; those opposed will vote no.

69 having voted in the affirmative and 64 in the negative with 17 being absent and 1 vacancy, the motion did prevail. Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(See Roll Call No. 342)

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

PASSED TO BE ENACTED

An Act Making Appropriations and Allocations for the Expenditure of Funds Received by the State as a Result of a Federal Court Order in the Exxon Oil Overcharge Case (H.P. 1753) (L.D. 2436)

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

PASSED TO BE ENACTED

An Act Relating to Commercial Vehicles (S.P. 914) (L.D. 2282) (S. "B" S-555 and H. "A" H-733 to C. "A" S-484)

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Establish a Legislative Task Force on Railroads to Study Tax Exemptions and Economic

Subsidies to Railroads and the Future of Rail Transportation in Maine and its Effect on the Economic Viability and Stability of the State (H.P. 1754) (L.D. 2437)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of the same and 10 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 of unfinished business:

The following matter, 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.

An Act to Establish the Maine Business Opportunity and Job Development Program (BOND ISSUE) (S.P. 980) (L.D. 2426)

TABLED - May 28, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted. (Roll Call Ordered)

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The bill that we have before us we debated at length in the previous session so I won't take much of your time to ask you to support this measure.

I don't have to remind the members of this body that we are going through a period of retrenchment on the federal level and that many of the programs that we have relied upon to fund business expansions and other economic developments in the State of Maine are shrinking. We have seen erosion of many programs and there are many more in the wings that will be curtailed or eliminated completely.

This bill is an opportunity to provide unique financing availability for businesses in distressed areas that would not otherwise have the opportunity to obtain the necessary funds to expand or to modernize their operation.

This type of innovative financing has taken place, in 1985 alone, in 24 different states so it is not the type of financing that we should turn our backs on.

This bill, if enacted, would create 500 jobs in the State of Maine so we can really call it a jobs bill. It is a bond issue that calls for \$5 million which will be a revolving loan fund. Some of you may object to this bill on the grounds that we are issuing too many bonds -- I don't have to remind you that the state has now obtained a Triple A rating from Prudential-Bate because of the type of activity



that the state has done to improve its bond rating.

I would like to call your attention to what I call a prudent man type of rule approach to the issue, a very conservative approach indeed. Many of you who have bought a home have had recourse at the local banks. The local banks tell you that you can use 28 percent of your income to finance long term projects such as the purchase of a home.

The Governor, by Executive Order, has elected to make that 7 percent for the state. Now there are states, for example in Connecticut, who are using 15 percent of its income in this fashion.

I took the liberty of getting some figures on outstanding bonds in the state and the total bonded debt, including the \$31.1 million that we enacted in the last session, is \$404,450,000. The interest on the principal required to retire those bonds is \$56,209,167 a year. Our total revenues, and I must tell you that these are all bonds -- General Fund, Highway Fund and self-liquidating bonds -- amount to \$1,080,987,422. If you apply the 7 percent rule to this figure, you would have over \$75 million available to fund bonds. If we utilize 10 year bonds issued at six and three-quarters percent, (which is close to the going rate today) to retire those 10 year, \$10 million bond issues, you would need \$1,137,000. Carrying this principal forward, we could technically, under the 7 percent rule, issue an additional \$160 million dollars worth of bonds and we would still be within the 7 percent rule that the Governor has established by Executive Order.

Of all the bonds that we have before us this session, the amount I believe is \$23,700,000, we are way below the 7 percent rule.

The issue that we have before us is vitally important to the future economic viability of the State of Maine and I would, therefore, urge you to support it.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief also, I spoke on this issue once before.

This is the opportunity for the State of Maine to start addressing the problems that the federal government has said that the states must address. This will replace SBA funding. That is the purpose of this bill, there is nothing different in the bill than before as far as providing training for unskilled persons or retraining -- that is just a criteria. You must remember that any loan that is granted through this bill is 50-50. The person requesting the loan must have 50 percent of the total loan required so it is not a giveaway.

I urge you to support it because this is vital to the State of Maine. If the SBA is no longer in existence, there is no where for us small businesses to go.

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

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I was one of the cosponsors of the FAME Bill. We recently raised the limits for small business up to \$500,000 and for veterans to \$600,000 so when people tell you there is no other opportunity in the State of Maine to get money, they are misinformed. FAME guarantees 15 percent of that money.

We passed a law here last year which allowed

banks from out of state to come in so there would be money available for business. There is ample money available.

The other important factor is that interest rates are low. I don't see any reason why you would need to raise any more money on a 50-50 matching basis to give people operating capital or anything else. They have the availability, the money is here, and if the banks won't give them the money, they probably should not be in business.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would like to join the Representative from Winslow, Representative Carter, in encouraging you to vote for this bond issue today.

In the last few years, industrial development bonds, to tax exempt bond financing allowed under federal law, has facilitated the investment of some \$80 to \$100 million a year in industries and businesses in this state. As we speak, the Congress is now dealing with the Federal Tax Reform Act and, as things stand, the Senate Finance Committee's version of that bill, which I understand is now in the House and soon will go to Conference Committee at some point, retains a sunset provision. That means that industrial development bonds will no longer be available at the end of that year. At this point, it is anybody's guess as to what will ultimately happen but at present we are dealing with a reduced ceiling, from \$400 million a year to \$200 million a year, which has effectively reduced the amount of available tax exempt bond financing in this state dramatically.

I think the writing is sort of on the wall. We have got to start preparing for what may or may not be inevitable. Clearly, there is a problem.

I think what this proposal is attempting to do is have the state begin providing this type of capital for Maine businesses. I don't think we have to get into what kind of benefits that provides for the state as a whole and for various regions of this state because I think this bill tries to address those depressed areas.

In terms of whether a business can stand on its own two feet or not in terms of going for a conventional loan to a bank, there is no question that bankers have a general conservatism about them regarding small businesses particularly. The new businesses starting up have had to face this for a long time. The low interest rates, I think, are something that is absolutely necessary. One thing that I think is particularly critical is the fixed rate aspect of what something like this can provide in terms of the whole subordinate financing approach to give a bank an opportunity to allow a business that needs to expand or start up the opportunity to get a fixed rate loan. This is sometimes essential, particularly in a period of fluctuating interest rates. Right now, interest rates are reasonably low -- eight and one-half prime is something that we can be excited about but, obviously, there are no guarantees. Many predictions are that those rates will go up in the next year.

I think we have been on an economic roll in many parts of this state and it has been somewhat related to the types of financing opportunities that have been granted through industrial revenue bonds. I think we ought to take the long view. This is something that we ought to get started now. I think the financing mechanism is appropriate. Obviously,

the voters would have to approve this so we ought to get started immediately because we still have to wait until November to see if they will go along with the proposal and that money will, hopefully, be available next year so businesses can continue to invest and reinvest in Maine and create jobs. Obviously, the interest we will be paying on this debt will be returned many, many times over by those jobs that it created.

It is essentially a revolving loan pool. The money goes out, the money will come back. It is a good investment. I hope you will support it.

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

Representative SPROUL: Mr. Speaker, Men and Women of the House: I share the concerns with a number of the people who have spoken before me and what this is attempting to do.

I do have a question and I hope someone can answer this.

The intention of many people who are supporting this is that one of the criteria in the bill is for it to stimulate investment in economically distressed industries of this state and I can understand their concerns and I share their concerns. I have a further concern with the bill and let me tell you briefly what it is by reading a section of this bill. It says, "This program may be operated in conjunction with or as part of one or more other programs of the authority. Money in the fund may be applied to carry out any power of the authority." The very next section of the bill says, "if money in the fund is loaned for purposes of this sub-chapter," the wording of this leads me to believe that there are not adequate restraints on the use of this fund and I would be very happy to hear any explanation regarding that concern.

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

Representative HALE: Mr. Speaker, Men and Women of the House: When they talk about combining money, this is no different than a lot of businesses and not small businesses. For example, a business that wanted to purchase a building in my municipality — because of the depressed area, low wages, high unemployment, the town of Sanford qualifies for UDAG. This company came in and wanted to apply for a UDAG loan. At the same time, they were applying for a IDB or an IRB from FAME so there are two sources of income right there.

In this bill, 50 percent of the loan does not mean that it has to be my money, your money, their money — all they want is assurance that if you are applying for \$20,000, you have \$10,000 of the \$20,000 to expand your business, to create jobs or to start a new business. This is not a new concept per se. There are many, many businesses that combine all types of funding within HUD or FAME to fulfill the purpose that they hope to accomplish. In fact, I was amazed at the whole application in my municipality — it came to \$15 million with no requirement of any funding of their own.

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

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Earlier in the debate, the Representative from Winslow, Representative Carter, spoke of the 7 percent rule. The Governor issued a proclamation some time ago — I would remind this

body that that is a very arbitrary and subjective formula. The legislature hasn't adopted it as a policy and, as far as I know, we are an equal branch of government and have every right to decide that sort of a policy as well as the Governor. I appreciate the work that he put into it and I think it was an admirable task and I think it has some worthwhile results. All I am saying is, that we have an equal input into this relationship as well as the Governor.

The dollar amount of bonds that we will be retiring over the next year is \$35 million. We have already, through action that we took during the Regular Session and this session so far as of eight-thirty this evening, sent out to the people almost \$50 million worth of bonds that they will vote on this Fall.

If we should act on this favorably, it would be \$5 million additional. There has been talk, as many of you have heard, I am sure, about an additional bond issue for Corrections, which may run in excess of \$15 million. Add those altogether, you get \$70 million, which is twice what we are retiring and I realize there is much less in the 7 percent rule that Representative Carter mentioned earlier. Nevertheless, it is a significant increase and I think a negative trend in the state's fiscal policy.

My attempt, as a member of the committee dealing with this issue, was to prioritize which bond issues I felt were more important. I supported the Asbestos Bond Issue that came in a few days ago because I thought it was more important than this. As I recall, so did most members of the House.

I think there comes a time when you have to prioritize and say, enough is enough, we will be back here in January and there are other programs and other priorities that we ought to be involved with. I know that economic development is some sort of a catch phrase around here and everyone is concerned about it. I am as well but if you look at the total picture, the fact that the federal government is removing \$100 million (or may remove \$100 million) worth of subsidies, I am not sure that \$5 million in this program is going to make a substantial difference in Maine. I may be wrong about that and I have heard a lot of figures thrown around about the number of jobs that it is going to create but I believe, as Representative Dillenback does, that the interest rates are lower than they have been over the last 10 years, there seems to be plenty of money around available through the normal channels of interstate banking, I have not heard any problems in that regard.

However, if you look at what this program does for an individual borrower — as I recall, someone mentioned a situation where a business might want \$20,000 — they would get \$10,000 from some normal channel, a bank perhaps, and they might go to FAME for the other \$10,000. What that is going to do is, (1) it gives FAME a secondary mortgage on that property. It doesn't give them primary lien, it gives them a secondary lien. The issue here is, what does this mean financially to that business? It means the grand sum total of \$500, maybe. As it was explained to me, this is a buy-down approach in that if I were a business and I wanted to borrow \$10,000 from FAME, they would issue that loan to me at a reduced rate and it might be 5 percent instead of 10 percent. Ladies and gentlemen, the difference between a 5 percent loan and a 10 percent loan on a

\$10,000 principal amount is \$500. I don't think that is worth putting the credibility and the credit of the state on line. We already had an incident earlier this year, as I recall, with the long lines project down on the coast. The state has to go good for that.

This program will be directed at those businesses who are not the best, that are not able to secure normal, traditional funding through the banks. If that is the case, it is self-evident that they are riskier and therefore, the chance to the state is higher. I am opposed to that. If the people who are promoting this project want to put General Fund dollars behind it, that is one thing, but I don't think that it belongs in a bonding situation as opposed to building something with bonds. If you issue a bond, you generally get something for it, something concrete, a building, removal of asbestos an improvement on a particular state building or project. This does not do that. We are bonding a current services item and if it should be bought and was funded out of current services dollars, in my opinion, would stand a better chance for my support.

I hope you vote against this bond issue today.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Scarborough, Representative Higgins, stated that \$5 million will not do much if we are being cut a \$100 million. I have to agree with him -- \$5 million isn't much when you compare it against \$100 million but in a state the size of Maine, 500 jobs is an awfully lot of jobs. It could mean survival to some communities in some areas of the state.

The least we can do is try. If my good friend from Scarborough believes in fables, I can assure him that this will not be like the little Dutch boy who stuck his finger in the dike and stopped an area from being inundated by a vast amount of water.

This is a beginning, it is a very revolving loan fund and the 500 jobs will revolve from the \$5 million and once that money rolls back in, it will create more jobs.

I would hope that you would support this jobs bill.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I want to point out one thing that the gentleman from Scarborough, Mr. Higgins said, regarding the savings, if you will, on the lower interest rate of \$500 which was his example.

I just want to reiterate, if you are talking about the difference between a floating rate and a fixed rate over a 10 or 20 year period, the savings on that interest can amount to a far more significant number than that. You go from a base rate of 10 or 11 percent on financing and end up in the third year on a 20 year note at 13 or 14 percent -- add up those figures and you come to far more money. That is what a business needs to do. It needs to be able to plan and to have some basis to know what their long term liabilities are going to be. So I think that, to some degree, is more significant.

The SPEAKER: The pending question before the House is passage to be enacted. In accordance with the provisions of Section 14 of Article IX of the Constitution a two-thirds vote of the members present and voting is necessary. Those in favor will vote

yes; those opposed will vote no.

85 having voted in the affirmative and 48 in the negative with 17 being absent and 1 vacancy, the Bond Issue failed of enactment.

(See Roll Call No. 343)

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

Joint Order Relative to Referring L.D. 2092 to the Electors of the State on November 14, 1986 (H.P. 1718)

- In House, read May 28, 1986.

TABLED - May 28, 1986 (Till Later Today) by Representative DIAMOND of Bangor.

PENDING - Passage. (Roll Call Requested)

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

Representative DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: The hour is very late and relatively speaking, it is for those proponents and opponents of the so-called obscenity measure that was scheduled for the ballot on June 10th -- we have 13 days until that date on which that referendum will be held and if you look at the newspapers and watch television at all, I think you will realize that these campaigns are, indeed, in full swing.

Very briefly, I think it would be very irresponsible for us to change an action that the legislature took in April. At the time, we fulfilled our obligation and established a date for this referendum and, for that reason, Mr. Speaker, I move that this be indefinitely postponed. I would ask for the yeas and nays.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: As the gentleman from Bangor has said, the issue is time, both this evening and in terms of the referendum campaign. He uses the word "irresponsible" to change the date. That is what got us into this fix of seeing probably 20 percent of Maine's registered voters come out to decide a major referendum issue rather than the traditional time in November where 60 to 65 percent of Maine's registered voters would be able to decide this very important question.

I would urge you to reject the motion before us.

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 Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I voted for the bill that came before this body dealing with pornography. As the good gentleman from Madawaska, Representative McHenry, suggested at that time, we should have passed the bill and made the necessary amendments to

make it a good law. That failed to pass so it is to go to referendum. One of the reasons I wanted the bill passed here to address that problem without going to referendum was to save the churches of this state money. The churches cannot compete with the publishers of the so-called garbage with the amounts of money needed for a six or seven months campaign. We have already seen ads in the newspapers and on TV, half-truths and casting doubts.

Do you need a six or seven month campaign to convince you how to vote? I don't think so. I know the TV stations and the newspapers will not make much money by this early vote but the churches of this state will be the winners and I am for that. I hope you are and will vote for indefinite postponement.

The SPEAKER: The pending question before the House is the motion of Representative Diamond of Bangor that L.D. 2092 be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

76 having voted in the affirmative and 56 in the negative with 18 being absent and 1 vacancy, the motion did prevail.

(See Roll Call No. 344)

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

#### CONSENT CALENDAR

##### FIRST DAY

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

(H.P. 1730) (L.D. 2422) Bill "An Act Regarding Special Costs in Guardianship Proceedings" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-763)

Under suspension of the rules, second day notification was given, the bill passed to be engrossed as amended and sent up for concurrence.

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

(At Ease)

The House was called to order by the Speaker.

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

#### PAPER FROM THE SENATE

##### Non-Concurrent Matter

Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (H.P. 1748) (L.D. 2433) which was passed to be engrossed as amended by House Amendments "A" (H-746), "B" (H-747), "C" (H-748), "D" (H-749), "E" (H-750), "F" (H-751), and "G" (H-752) in the House on May 29, 1986.

Came from the Senate passed to be engrossed as amended by House Amendments "A" (H-746), "B" (H-747), "C" (H-748), "D" (H-749), "E" (H-750), and "G" (H-752) and Senate Amendment "A" (S-565) in non-concurrence.

On motion of Representative Paradis of Augusta, the House voted to adhere.

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

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

#### PASSED TO BE ENACTED

An Act to Allow Investments of State Funds Linked to Agricultural Loans (H.P. 1732) (L.D. 2425) (C. "A" H-759)

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

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

Representative FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: I rise to explain this bill to you as best I can.

A bill like this I think really should have gone to the Agriculture Committee and then to Appropriations with a fiscal note.

This is An Act to Allow Investments of State Funds Linked to Agricultural Loans. This would allow the Treasurer of the State to take \$4 million out of our revolving bond fund and invest it. They would allow this money to be used to give people applying to a financial institution 2 percent less on their loan. Farmers.

The reason that I disagree with this is that, right now, there is plenty of money in the financial institutions and the people that this money would be made available to has to fit this criteria. The people that would be applying for this loan (I will read it to you) -- "all the loans shall be at the interest rate which are below the interest rates the loans would have borne under existing market conditions and loan standards of the financial institutions." In other words, these people would be able to get a loan from their banks at the regular rate. Now if we pass this, it is a deficit to the General Fund of \$80,000 because our \$4 million will be tied up giving this certain group of people 2 percent less on their interest loan from the bank. Farmers.

As I said, I really wish the Agriculture

Committee, the farmers themselves, could speak up and say where they need help. I have talked to them and this isn't the vehicle that many of them would have chosen to have.

I will give you another scenario that we could do perhaps. What about the Mom and Pop stores? Would you be willing to give them 2 percent less on a financial loan that they can already get? Is that what we are here to do? Robbing the General Fund of another \$80,000 a year? The loans will be for this certain group of people.

I know that you will want to ask questions and I hope that I can answer them. I am sorry that we had the bill at this time because I think, in another year, we could come back with something that is of help to the farmers that need it. There was talk in the committee that this would bridge the gap between some of the Farm-Home money but we don't know what they are going to do there yet — let's wait a year on this bill and keep our bond money revolving and keep the money the way it is.

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

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: This is called the Link Deposit Bill — it is a Governor's bill. It is an attempt to help the agricultural community in one of the worst years that it has had. If you go into Aroostook County, they will tell you it is the worst year they have had in anyone's memory.

The bill allows the Treasurer of the State of Maine to place on deposit up to \$4 million in banks that agree to provide agricultural loans. The Treasurer of the State of Maine has \$30 some million dollars in a revolving fund that he is constantly lending out to banks in short term certificates throughout the state. He does that routinely throughout every normal year.

What the Governor is suggesting in this bill is (and this is, again, to help the agricultural community) that out of that \$30 some million dollars, there is going to be \$4 million set aside for this purpose. It is not tying up the money because the money is going to be invested just like it normally would be invested. The difference is this — the state is agreeing to invest this money at a 2 percent decrease than it would normally get. Therefore, there is going to be a cost to the state of \$80,000. They will invest this money at 2 percent less than what they would normally get, if that financial institution then signs a covenant with the State of Maine that it will in turn lend this money to farmers, to producers, and pass that 2 percent onto them. It is a \$4 million investment that costs the state \$80,000.

This particular Link Deposit Bill has been tried and is being implemented throughout this country. There are about five or six states that are currently using this and at a far greater investment. Some are upwards of \$80 and \$90 million dollars that they are using to help the farm community at a time when it is in a crisis.

The purpose is to provide state assistance at a time of uncertainty when we don't know what Farmers-Home is going to do. It will provide assistance to those farmers who have been hit by one of the worst years in recent history. It is also to encourage banks to get into the lending of money to the agricultural interest.

It has been said that there is plenty of money — well, that is really not true. One of the problems that the agricultural industry has is getting traditional loans. This is an encouragement for those better farmers on Farm-Home to get into traditional banking for their money.

I think this is sound practice. This is not going to save agriculture in the State of Maine, that is not the purpose of the bill and it is not the purpose of the bill to help the worst farmers in the state — it is a bill that is going to help some of the better farmers that have gone through a tremendous crisis.

I urge you to support the Governor's bill and to support the Majority "Ought to Pass" Report.

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

Representative MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: This bill will accomplish one thing because apparently Farmers-Home Administration is going to have a lot of trouble with the major banks. At a conference in Boston this last Spring when we were discussing the problems and the future of the Farmers-Home Administration loans to farmers they insist that by 1991, they are going to out of the loaning business. They are going to guarantee loans at the bank but the major banks say they don't want the federal government guaranteeing loans with them. One of the major banks here in Maine — the President of the bank stated very frankly that they would not take any loans guaranteed by the Farmers-Home Administration in the future.

This program will give Maine banks an opportunity to work under a guarantee program so when the Farmers-Home Administration comes along with this guarantee that they are talking about, our banks in Maine will already have dealt with this type of assurance from a government agency, being the State of Maine. I think, with the limited amount of money that we are talking about, that it is a start. It is nowhere near the needs for one Spring planting season but it is a help.

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

Representative BELL: Mr. Speaker, Men and Women of the House: The hour is late, it is May 29th — this bill came in on Tuesday, when we had our first public hearing. Crop production takes place in the Spring as Representative McCollister just indicated.

I am opposed to this bill for a couple of reasons. Personally, I think that the Treasurer of the State's philosophy should be to get the greatest investment or the greatest return out of our State General Fund investments.

\$80,000 doesn't sound like a great deal of money when we are dealing with a \$4 billion dollar budget. Is this a precedent? Is, in this situation, a transition bill for Farmers-Home Administration, a reason to give up \$80,000 of investment back from our dollars? What is the next issue going to be? There are a number of purposes that this body feels is important and has merit of funding and, in that case, we appropriate General Fund dollars for it. This mechanism, I am opposed to, just from a philosophical point of view.

I question why we are dealing with this bill at this point in time. I asked during the public hearing, what the goal of this legislation was — is it going to help agriculture in the state? The

answer that I received was, it is a transition bill for Farmers-Home Administration. We are not sure what is going to happen with the amount of money coming to the State of Maine but this is an attempt to begin to wean farmers off from Farmers-Home Administration loans.

I would urge this body to vote against this measure tonight.

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

A vote of the House was taken.

58 having voted in the affirmative and 47 in the negative, 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:

PAPER FROM THE SENATE

Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine Providing for Filling a Vacancy in the Office of Governor after the Convening of the Legislature and before the Governor-elect is Inaugurated (S.P. 974) (L.D. 2419) (C. "A" S-551) which failed of final passage in the House on May 29, 1986.

Came from the Senate finally passed in non-concurrence.

The SPEAKER: The pending question before the House is recede and concur.

Representative Murphy of Kennebunk requested a roll call.

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

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

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

Representative GWADOSKY: Mr. Speaker, I would like to pose a question through the Chair to the Representative from Kennebunk, Representative Murphy.

I noticed that during the last two recorded votes on this issue, he has voted in opposition to this change which was a unanimous committee report from the Committee on State Government and I would like to know what his opposition is to this Constitutional change?

The SPEAKER: The Representative from Fairfield, Representative Gwadosky, has posed a question through the Chair 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: In response to the question

posed by the gentleman from Fairfield, the first reason for opposition is that there hasn't been a problem that presiding officers have had to make a decision, they have made those decisions in the past. If any scenario should develop and there is no guarantee that there will be one this year or any time in the future, those presiding officers can make that difficult political decision.

Second, I don't think we should be introducing legislation into this Special Session because of humorous political commentary columns that have been written.

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

Representative GWADOSKY: Mr. Speaker, I would like to pose another question through the Chair to the Representative from Kennebunk, Representative Murphy.

Representative Murphy inferred that this problem has come in the past and those people in the positions had to make a political decision on what to do -- I wonder if he could enlighten the members of this body of a single incident in which the same political situation we now find ourselves in has happened before?

The SPEAKER: The Representative from Fairfield, Representative Gwadosky, has posed a question through the Chair to the Representative from Kennebunk, Representative Murphy, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MURPHY: Mr. Speaker, Men and Women of the House: In death or early resignation of Governors.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: The fact is that this is an entirely different situation.

The rules under the Constitution are entirely different than those of death or a resignation of a Governor particularly in light of the situation that we find ourselves possibly in. We are talking about a situation where we may be faced with having to have an interim Governor for three to four days. Under the Constitution, the President of the Senate, whoever that may be, is forced to succeed to the Governor's Office. They don't have a choice. They are forced to succeed to the Governor's Office, which means that they, indeed, have to give up their Senate seat.

So what we are saying today, if we do not approve, is that we are forcing the next President of the Senate who has just been elected in November, to resign his Senate seat so that he, under the Constitution, can fulfill his constitutional obligation by becoming an interim Governor for four days and after that time, the new Governor would be sworn in. Then that particular Senate President, whomever he or she happens to be, would then have to run for reelection in a special election determined by the new Governor.

As a matter of fairness, a concern that Representative Murphy has brought to us several times -- we don't think that that is fair to place an individual in that position. This person has just been elected by the members of his own legislative district, the person becomes the Senate President,

and now that person will have to resign his or her Senate seat because of this quirk in our Constitution. We believe this is a very fair method.

If you are wondering why it doesn't happen in other states, it is probably because 42 other states have a Lieutenant Governor and this type of problem never arises. My understanding is that in the country right now, there are three states that have had this same kind of problem -- most recently in New Hampshire, a couple of years ago, and this legislation is modeled after New Hampshire in which we allow a Senate President to back down from their responsibilities as President of the Senate but still retain their Senate seat for those three or four days as an acting Governor and then resume in their original capacity. We think it is a fair approach and we certainly urge your adoption.

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

Representative MURPHY: Mr. Speaker, I would like to pose a question through the Chair to the Representative from Fairfield, Representative Gwadnosky.

Is there anything that would prevent that Chief Executive (if the scenario, which would be very unlikely that you have laid out, develop,) out of his concern for that presiding officer of the Senate or the House or the Secretary of State moving down through the lines of succession, defer being sworn in, say in Washington, an additional three or four days as many members of this House, who are not here for opening day, are sworn in at a later date -- maybe passing up some of the pomp and circumstance in terms of opening day but would be relieving the constitutional crisis in the state without having to go into the Constitution and amend it?

The SPEAKER: The Representative from Kennebunk, Representative Murphy, has posed a question through the Chair to the Representative from Fairfield, Representative Gwadnosky, who may respond if so desires.

The Chair recognizes that Representative.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Whether or not, indeed, that circumstance could happen where a Representative-elect decides to have his or her particular inauguration deferred, perhaps is a possibility. I guess the real issue is, why do we need to put ourselves in that position when we can take care of the problem with a simple bill.

As I said before, (and I am sorry that the Representative from Cape Elizabeth, Representative Webster, is so amused by my response) the reason we find ourselves in this position, quite simply, is because seven or eight years ago, the Maine Legislature decided to back up our inauguration date. Rather than have it in January, tying in with the Governor, we backed ours up into December to give us a head start, to allow us the opportunity to organize and do the things that we needed to do. Probably a lack of foresight at the time that we didn't also back up the Governor's Inauguration date, or at least take that into consideration that this type of thing could happen somewhere down the road where an incumbent decides to run for another office and we end up with this sudden quirk in the law but we believe that this is a fair approach. We believe that it resolves the problem and it is probably the simplest thing that we could do.

The SPEAKER: The Chair recognizes the

Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: I guess I have to say that it is unfortunate for the next prospective President of the Senate that the Constitution of the State of Maine will get in the way of his ambitions. The Constitution of the State of Maine gets in the way of a lot of people's ambitions, that is why we have a Constitution. It is not here to be changed at the whim of one person or one person who maybe hopes to be in a position in a year and continue his own pursuit of power.

Quite simply, the next person who gets to run for President of the Maine Senate will do it with full knowledge that this situation may occur. If under the conditions created by the Constitution of this state, we can't find anybody who is willing to be President of the Senate, then so be it. I personally don't feel that that will happen.

I also feel that this bill is one of the most gross and one of the most crass examples of attempting to manipulate the Constitution of the State of Maine for the pursuit of personal power. I am shocked that it is even presented to this body.

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

Representative DIAMOND: Mr. Speaker, Men and Women of the House: I am really surprised and I hope that it is attributable to the lateness of the hour that any member would look at a piece of legislation that was so articulately argued by the Chair of the State Government Committee explaining the seriousness of the situation, the potential for problem, and accuse him of some sort of political shenanigans. There is no question that this was not an issue that was considered before a newspaper column of a couple of weeks ago, but nonetheless, a very real situation exists.

I had avoided the discussion on this because I thought it was clear what was taking place but when we start entering into personal attacks on the motives of individuals, trying to take care of a problem they believe should be addressed immediately, then I think we have gone a little too far.

It is very late, I wish we could dispose of this issue now.

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

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Two points -- (1) in terms regarding the comments made by Representative Murphy of Kennebunk, there could be a problem with this scenario taking place -- that being the Congress is run by the seniority system and there could be an impact on our potential future Congressman stature in terms of committee assignments and other things that are determined by the seniority system. I don't know that for a fact and I don't want to pretend that I do but I know there is a possibility of that occurring. We obviously don't want a Congressman from Maine in an unfortunate and less than equal position when he or she enters into Congress.

Secondly, if the next President of the Senate is forced to run again, we are going to require another election in some community back home somewhere that is going to cost additional money and cause people a whole lot of trouble that can be avoided by a simple amendment to the Constitution that, in my mind, makes nothing but good sense. It is not politically

motivated, there is nothing crass about it, it simply makes sense. We are in a position where we can address it and I think we ought to be responsible and do just that.

The SPEAKER: The pending question before the House is to recede from failing of final passage and concur with final passage. This being a Constitutional Amendment, a two-thirds vote of the House is necessary. Those in favor will vote yes; those opposed will vote no.

62 having voted in the affirmative and 59 in the negative with 29 being absent and 1 vacancy, the motion did not prevail.

(See Roll Call No. 345)

Representative Higgins of Scarborough moved that the House adhere.

On motion of Representative Carter of Winslow, the House voted to insist.

(Off Record Remarks)

Representative McGowan of Canaan was granted permission to address the House:

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I have been staring at the sea of green papers across our desks all day long and I turned around and former Representative Mitchell has a green dress on. I have just been told that it is 11-2 and Bird scored a three pointer and I was wondering if we were operating accordingly under the rules after nine o'clock?

The SPEAKER: The Chair would suggest that maybe he would like to talk to the person across the aisle, Representative Strout. The rules have been suspended by implication.

The following item appearing on Supplement No. 37 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Establish a Legislative Task Force on Railroads to Study Tax Exemptions and Economic Subsidies to Railroads and the Future of Rail Transportation in Maine and its Effect on the Economic Viability and Stability of the State (Emergency) (H.P. 1754) (L.D. 2437) which was passed to be enacted in the House on May 29, 1986.

Came from the Senate failing of passage to be enacted in non-concurrence.

The House voted to adhere.

On motion of Representative Carter of Winslow, the House reconsidered its action whereby the House voted to adhere.

On further motion of the same Representative, the House voted to insist.

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

On motion of Representative Dillenback of Cumberland;

Adjourned until May 30, 1986 at nine o'clock in the morning in memory of William J. Garsoe, a former member of the Legislature.